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BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

# Agenda for the Third Session of the Bombay Legislative Council held at the Council Hall, Poona, on Thursday the 21st September 1922, at 2-30 p.m.

## I.—NOMINATION OF FOUR CHAIRMEN.

## II.—GOVERNMENT BILLS.

(1) Bill No. XIII of 1921 (A Bill further to amend the Prevention of Cruelty to Animals Act, 1890)—*Second Reading.*

(2) Bill No. XV of 1921 (A Bill to make provision for the management and control of certain open spaces in the City of Bombay)—*Second Reading.*

(3) Bill No. VIII of 1922 (A Bill further to amend the Prince of Wales Museum Act, 1909)—*Second Reading.*

(4) Bill No. XIII of 1922 (A Bill to provide for the regulation and control of transactions in cotton in Bombay)—*Second Reading.*

(5) Bill No. XIV of 1922 (A Bill to amend the Identification of Prisoners Act, 1920)—*First Reading.*

(6) Bill No. XV of 1922 (A Bill further to amend the Bombay Rent (War Restrictions) Act, 1918, and the Bombay Rent (War Restrictions, No. 2) Act, 1918)—*First Reading.*

(7) Bill No. XVIII of 1922 (A Bill further to amend the Bombay Salt Act, 1890)—*First Reading.*

(8) Bill No. XVII of 1922 (A Bill to provide for compulsory elementary education and to make better provision for the management and control of primary education in the Bombay Presidency)—*First Reading.*

(9) Bill No. XX of 1922 (A Bill to impose a duty in respect of admission to entertainments)—*First Reading.*

(10) Bill No. XVI of 1922 (A Bill to consolidate and amend the Law relating to local boards)—*First Reading.*

## III.—SUPPLEMENTARY ESTIMATES.

## IV.—PRIVATE BILLS.

Motions for leave to introduce Bills :—

Notice has been received of the following :

(1) A Bill further to amend the Bombay Hereditary Offices (Amendment) Act V of 1886—Mr. S. T. Kambli, M.L.C.

(2) A Bill to amend the Bombay Race-courses Licensing Act, 1912—Rao Saheb Harilal D. Desai, M.L.C.

## V.—MOTIONS TO AMEND STANDING ORDERS.

Motion No. III of 1922—Presentation of Report of Select Committee.

Motion No. IV of 1922 for leave to amend Standing Orders—Mr. Kalandarbaksh Sufi, M.L.C.

## VI.—DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST.

*Resolutions by Rao Bahadur S. D. Garud, M.L.C.*

1. "This Council recommends to His Excellency the Governor in Council that a committee be appointed to consider the question of readjusting the existing division of Khandesh for revenue and judicial purposes."

2. "This Council recommends to His Excellency the Governor in Council that toll bars on all provincial roads be abolished."

*Resolutions by Sardar V. N. Mutalik, M.L.C.*

1. "This Council recommends to Government to be pleased to take steps to finish the work of introducing revision survey settlements in alienated villages which are due for such settlements but in which such settlements are not yet introduced within two years."

2. "This Council recommends to His Excellency the Governor in Council to be pleased to issue orders under section 135-A of the Bombay Land Revenue Code exempting all unsurveyed alienated villages from the introduction of record of rights and to issue orders to stop the introduction and to stop the operations where they have been begun, except where the holders of the villages so desire."

3. "This Council recommends to Government to be pleased to introduce legislation, as early as possible, for the amelioration of the condition of the inamdars in the Deccan and in the Karnatic, and for their relief from debts, on the lines of the legislation enacted for the benefit of the Sind Zamindars."

*Resolutions by Mr. S. T. Kambli, M.L.C.*

1. "This Council recommends that steps be taken to appoint three probationers to the posts of mamlatdars in the Southern Division of the Bombay Presidency this year from qualified non-Brahmins.

2. "This Council recommends that the sub-inspectors of police in this Presidency should be given an annual increment of Rs. 5 instead of the triennial increment of Rs. 10."

*Resolutions by Mr. C. M. Gandhi, M.L.C.*

1. "This Council recommends to Government the desirability of making the Jail Manual and other departmental manuals available to the general public for purchase at reasonable rates."

2. "This Council recommends to His Excellency the Governor acting with his Ministers that early steps be taken to establish in Surat a demonstration factory fitted with the most up-to-date machinery and conducted on scientific methods to familiarise the people engaged in the gold thread industry with the use of the up-to-date machinery and of the improved scientific methods by which the industry is carried on in France and other countries of Europe, and that a sum of Rs. 1,00,000 be set apart in the next year's budget for the purpose."

3. "This Council recommends to His Excellency the Governor in Council that all estimates with regard to expenditure on the Development Scheme should be placed before the Finance Committee at least seven days before any demand is made to the Council for a grant for the same."

*Resolutions by Mr. M. A. Havelivala, M.L.C.*

1. "That this Council recommends to Government that a committee should be appointed to inquire into the present status of the share bazaar of Bombay and into the alleged huge gambling transactions recently reported and to recommend to Government what action, if any, is necessary that the stock exchange may be put upon such a basis as will effectually stop all further so-called "Corners" resulting as they do in effectually curtailing the flow of investors' capital into the industries of Bombay and tarnishing the fair fame of this great city."

2. "That this Council recommends that Government direct the Dean of the Grant Medical College to admit as second year students of that college all the students who passed the Preliminary Scientific examination of the Bombay University in May 1922 and sought admission into that college and for the purpose of enabling the students to be recommended by the Principal to the university that they may be excused the number of lectures which they have failed to attend owing to their non-admission as such students in June 1922."

*Resolution by Mr. G. C. Bhate, M.L.C.*

1. "This Council recommends that the Government should see its way to introduce the following rule in Grant-in-aid Code that in all schools and colleges which receive Government aid in any form whatsoever the attendance by students to any class of special religious instruction, which the parents or guardians of such students shall not have sanctioned, would be perfectly voluntary and that no payment in grant-in-aid should be made to any institution which will contravene the provisions of this rule."

*Resolutions by Mr. S. K. Bole, M.L.C.*

1. "This Council recommends that a committee be appointed by Government to make enquiries into the grievances of the tenants holding lands under the khoti system in the Ratnagiri and Kolaba districts."

2. "This Council recommends that members of non-Brahmin backward and depressed classes, and those of Lingayat, Jain and Mahomedan communities who have passed the test for qualifying themselves for the post of mamlatdars shall preferably and in the first instance be appointed when such are available in filling up vacancies occurring hereafter in each of the Central and Southern Divisions of this Presidency until the number of such non-Brahmin mamlatdars in each of the divisions reaches the proportion of 60 per cent. of the total number of mamlatdars for each of the divisions."

3. "This Council recommends that members of the non-Brahmin backward and depressed classes and those of Lingayat, Jain and Mahomedan communities who hold third year Government vernacular training college certificate and have put in a service in the teaching line for a period of not less than five years shall be preferably in the first instance when available appointed to the post of assistant deputy educational inspector while filling up vacancies occurring hereafter in the Central and Southern Divisions until the number of such non-Brahmin assistant deputies reaches the proportion of 75 per cent. of the total number or cadre of assistant deputies in each of these divisions."

*Resolution by Dr. K. E. Dadachanji, M.L.C.*

1. "That in view of the heavy mortality from epidemic diseases in the province, this Council recommends the Government to appoint a committee to

inquire into the sanitary conditions of the municipal and rural areas, and to draw up a comprehensive scheme of sanitation and medical relief in both the areas, so as to reduce the heavy mortality from plague, cholera, influenza, malaria and other epidemics in the province."

*Resolutions by Mr. A. N. Surve, M.L.C.*

1. "This Council recommends to Government to appoint a committee, consisting of officials and non-officials, with a majority of the latter, to inquire into the grievances of the prisoners in the Visapur Jail, and to suggest ways and means to remove them."

2. "This Council recommends to Government to popularise the use of Brunton's lancet and to make it easily accessible in the districts and to adopt such other measures as may be necessary to check the alarming mortality due to snake-bites."

3. "This Council recommends to Government to adopt effective measures to prevent destruction of human life and damage to crops caused by wild animals, by making adequate provision to give rewards for their destruction and deputing police parties to shoot them."

*Resolutions by Rao Bahadur R. M. Nilkanth, M.L.C.*

1. "This Council recommends to Government that the practice of touring officers hiring carts and buying provisions through officers and servants of Government be discontinued."

2. "This Council recommends to Government that the rates for hire of carts and prices of provisions to be paid by touring officers should not be fixed by Government but should be settled by contract in each case."

*Resolutions by Mr. B. V. Jadhav, M.L.C.*

1. "That in order to give special encouragement to the non-Brahmin backward communities, including the Marathas and the depressed classes, this Council recommends to Government to appoint every year in the Central and Southern Divisions ten probationary mamlatdars from the graduates and under-graduates of these communities as was done in the case of the Mahomedans of Sind."

2. "That for the purpose of reducing the excessively high proportion of the advanced communities among the trained vernacular teachers in the Central and Southern Divisions, this Council recommends to Government to pass an order to give, during the next ten years, preference to the duly qualified candidates belonging to the non-Brahmin backward communities including the Marathas and the depressed classes at the time of admitting students to the various classes of the training institutions for vernacular teachers in the two divisions."

3. "That for the purpose of reducing the excessively high proportion of the advanced communities among the untrained vernacular teachers in the Central and Southern Divisions, this Council requests Government to pass an order to give, during the next ten years, preference to the duly qualified candidates belonging to the non-Brahmin backward communities including the Marathas and the depressed classes at the time of making temporary and permanent appointments in the two divisions."

*Resolution by Rao Saheb P. G. Halkatti, M.L.C.*

1. "This Council recommends that the Government of Bombay should every year make provision in the budget for a sufficient amount for giving at least fifty scholarships to students going to receive education in agricultural, industrial and such other subjects in and out of British India."

*Resolution by Mr. J. Addyman, M.L.C.*

1. "This Council recommends to the Governor in Council that, in view of the new Factory Act which came into force on July 1st, 1922, immediate steps be taken to establish an efficient Factory Inspectors Department, separate from the Boiler and Smoke Nuisances Department; and that the staff should include, in addition to a chief factory inspector, superintending inspectors, inspectors and inspectors' assistants, both men and women, European and Indian."

*Resolution by Dr. S. S. Batliwala, M.L.C.*

1. "That this Council recommends to His Excellency the Governor in Council that all proposals for increasing the assessment of land revenue brought up before the Governor in Council be subject in future to a discussion of the same by the Legislative Council and the recommendations of the Council as a result of the discussion be the guiding factor in the revision of the asessment of the land revenue."

*Resolutions by Mr. G. B. Trivedi, M.L.C.*

1. "This Council recommends to the Government that they should not remove the name of any Indian manufacturer or firm from the list of their suppliers on account of political views or for reasons unconnected with the intrinsic merit of the goods supplied such as quality, prices or delivery."

2. "This Council recommends to the Government that they should not reduce the present rate of grant-in-aid to secondary schools."

3. "This Council recommends to the Government that they should increase their grant-in-aid to secondary schools for girls from one-third to one-half of the expenditure."

4. "This Council recommends to the Governor in Council that a committee of two officials and four non-official members of this Council be appointed to inquire into the complaints recently made by Messrs. Bhojraj, Werhomal and others regarding the administration of the Visapur Jail."

5. "This Council recommends to the Governor in Council that the rules regarding the treatment of political prisoners which are now being considered by Government, be placed on the Council table before they are finally adopted."

*Resolutions by Mr. Kanji Dwarkadas, M.L.C.*

1. "This Council recommends to Government to appoint a committee of officials and non-officials with a non-official majority, to enquire into the condition of labourers working in docks, as regards their condition of services, housing accommodation, education and their general economic position."

2. "This Council recommends to the Governor in Council that a committee be appointed to enquire into and report on the facilities that at present exist for the recreation—including open air and indoor—for the working classes in the city of Bombay and what steps should be taken to make adequate provision for them."

*Resolutions by Mr. Ibrahim S. Haji, M.L.C.*

1. "This Council recommends to Government that the principle of communal representation as prevailing in Sind be extended to the Mahomedans and the Marathas and the depressed classes in the municipalities and the district local boards of the Presidency proper."

2. "This Council recommends to Government that those officers of the Educational Department whose services were confirmed prior to the 21st August 1921 be exempted from the provisions of paragraph 3 of Government Order No. 4673, dated the 21st August 1921."

*Resolution by Rao Saheb Dadubhai P. Desai, M.L.C.*

1. "This Council recommends to the Government to undertake the construction of big irrigation works in Gujarat."

*Resolutions by Mr. S. P. Ligade, M.L.C.*

1. "That for the purpose of reducing the excessively high proportion of the advanced communities among the trained vernacular teachers in the Central and Southern Divisions, this Council recommends to His Excellency the Governor acting with his Ministers to pass an order to give, during the next ten years, preference to the duly qualified candidates belonging to the non-Brahmin backward communities including the Marathas and the depressed classes at the time of admitting students to the various classes of the training institutes for vernacular teachers in the two divisions."

2. "That for the purpose of reducing the excessively high proportion of the advanced communities among the untrained vernacular teachers in the Central and Southern Divisions, this Council requests His Excellency the Governor acting with his Ministers to pass an order to give, during the next ten years, preference to the duly qualified candidates belonging to the non-Brahmin backward communities including the Marathas and the Depressed classes at the time of making temporary and permanent appointments in the two divisions."

3. "That this Council recommends the Government to fix a proper and definite proportion of admission to the vernacular training schools and colleges in the case of the Maratha and other backward class students."

*Resolutions by Rao Bahadur R. R. Kale, M.L.C.*

1. "This Council recommends to the Government that in view of the uncertain and unsettled state of law relating to public charitable and religious trusts and endowments (existing and future) in this Presidency and in view of the need of ensuring proper and necessary safeguards to protect such trusts and endowments, the Government should at an early date introduce legislation making provision for :—

(*a*) the registration of existing and future endowments and trusts declared for public charitable and religious purposes ;

(*b*) the submission of audited accounts of such trusts ;

(*c*) making the trustees or managers of such trusts liable in the same manner as trustees under the Trust Act of 1882 ;

(*d*) securing the trust properties and incomes thereof to the objects of the trusts ;

(*e*) the creation of district or other boards for the control and supervision of such trusts and endowments ;

(*f*) and for such other matters as may be necessary for preventing the alienations and misapplication of such properties."

2. "This Council recommends to the Government that it will be pleased to appoint a standing committee of the members of this Council consisting of officials and non-officials for the purpose of scrutinising and approving the rules and regulations made from time to time under the rule-making powers conferred upon the Governor in Council by the legislature in the various enactments passed by it, before they are finally sanctioned and have the force of law."

3. "This Council recommends to His Excellency the Governor of Bombay acting with Ministers that none of the existing grants-in-aid to secondary schools be reduced on any account."

4. "In view of the hardship caused to the cultivating classes and the increase in the revenue courts of the work which properly belongs to the civil courts, this Council recommends to Government that the provisions of section 86 of the Land Revenue Code be so amended as to make it discretionary with the Collector to grant assistance for the recovery of land revenue only."

*Resolutions by Rao Saheb Harilal D. Desai, M.L.C.*

1. "This Council recommends that Government be pleased to rule that in municipal districts where by-laws have been framed with the sanction of Government under section 48, clauses (*n*), (*o*), (*p*), (*r*) and (*s*) of the Bombay District Municipal Act III of 1901, the control of the revenue authorities under the Land Revenue Code and the rules thereunder in so far as building operations are concerned should be withdrawn as superfluous."

2. "This Council recommends to Government that immediate effect be given to the orders of the Government of India in respect of appointing the requisite proportion of Indians to superior posts ordinarily held by members of the Indian Civil Service."

*Resolution by Rao Bahadur D. A. Vichare, M.L.C.*

1. "This Council recommends to Government that the right of ownership of reserved trees such as teak, sandal, etc., that are situated on the land for which the owner pays assessment shall be conceded to the owner unconditionally even if such trees be situated within the forest demarcation."

## VII.—PAPERS PRESENTED TO THE COUNCIL.

1. Report of the Select Committee on Bills Nos. VIII and X of 1922 (Bills further to amend the Prince of Wales Museum Act, 1909).

2. Report of the Select Committee on Bill No. XIII of 1921 (A Bill further to amend the Prevention of Cruelty to Animals Act, 1890).

3. Report of the Select Committee on Bill No. XIII of 1922 (A Bill to provide for the regulation and control of transactions in cotton in Bombay).

4. Report of the Select Committee on motion No. III of 1922 to amend Standing Orders.

*Thursday, the 21st September 1922.*

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The Council assembled at the Council Hall, Poona, on Thursday the 21st September 1922, at 2-30 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHAUGULE, Mr. ANNAPPA PHADEPPA.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA.
DWARKADAS, Mr. KANJI.
FERNANDES, Major C.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Honourable Khan Bahadur SHAIKH.
GODAD, Khan Saheb ABDULLA AVJAL.
GODBOLE, Dewan Bahadur K. R.
GRIFFITH, Mr. F. C.
GULAMHUSEN, Mr. SULTANALI SALEMANJI.
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA.
HAVELIVALA, Mr. M. A.
HAYWARD, The Honourable Mr. M. H. W.
HOOD, Mr. A. J. F.

HULKOTI, Mr. CHANNAPPA CHANVIARAPPA.
JADHAV, Mr. B. V.
JENNINGS, Major-General W. E.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
KANGA, Mr. J. B.
KER, Mr. J. C.
LALBHAI AMBARAM, Mr.
LAWRENCE, The Honourable Mr. H. S.
LORY, Mr. F. B. P.
MANSURI, Khan Saheb A. M.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MODI, Sardar Davar T. K.
MOHOMED SALAHUDDIN K., Mr.
MONIE, Mr. P. W.
MOTIRAM, Rao Saheb RUPCHAND.
MOUNTFORD, Mr. L. J.
MUTALIK, Sardar V. N.
NELSON, Mr. F.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PAINTER, Mr. H. L.
PARANJPYE, The Honourable Dr. R. P.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Honourable Sir IBRAHIM.
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SETALVAD, The Honourable Sir CHIMANLAL H.
SHIRRAS, Mr. G. FINDLAY.
SURVE, Mr. A. N.
THAKOR of AMOD, Sardar NAHARSINGHJI.
THOMAS, Mr. G. A.

TRIVEDI, Mr. G. B.
VICHARE, Rao Bahadur D. A.

The Honourable the PRESIDENT: Order, order. Are any new members desirous of taking their seats?

The following members then made the prescribed oath of allegiance to His Majesty the King Emperor and took their seats in the Council:—

Major-General W. E. Jennings.
Mr. O. Rothfeld.

The Honourable the PRESIDENT: Questions.

PROFESSOR OF CLINICAL MEDICINE.

Dr. S. S. BATLIWALA (Bombay City, North): (*a*) Has the attention of Government been drawn to a leading article in the "British Medical Journal" of 3rd June 1922, pages 892-893, entitled "A Broken Undertaking" and commented on in the *Pioneer* of the 28th June 1922, copies of which are attached herein?

(*b*) Will Government be pleased to state whether it is a fact that Professor Hamilton Fairley who was brought out from Australia to Bombay as a special Professor in Clinical Medicine in the Tropical School of Medicine which was contemplated to be started in Bombay and for which a yearly donation of one lac was promised by Sir D. J. Tata, has been served with a notice dispensing with his services from 31st October 1922?

(*c*) If so, will Government be pleased to give reasons for the same?

The Honourable Dr. R. P. PARANJPYE: Yes. Owing to the financial situation it is not possible for Government to proceed with the School of Tropical Medicine as was originally contemplated. Formal notice in accordance with the terms of employment laid down by this Government has been given to Professor Fairley as stated in the question. Whilst this Government can accept no legal liability for the action they have been reluctantly compelled to take, they fully recognise that hardship has been caused to Professor Fairley and his further employment is at present under consideration.

Dr. S. S. BATLIWALA: Are Government aware that the advertisement given in foreign papers by the agents of the Government of Bombay in London gave the applicants for the post to understand that the post was for five years certain?

The Honourable Dr. R. P. PARANJPYE: That is not according to the communication of this Government.

Dr. S. S. BATLIWALA: If it is not in accordance with the communication from this Government, and if the agent of the Government had advertised in the manner I have said, are not Government liable?

The Honourable Dr. R. P. PARANJPYE: The question is under consideration.

Dr. S. S. BATLIWALA: Have Government decided by this time to employ Professor Fairley for certain?

The Honourable Dr. R. P. PARANJPYE: Not yet.

INDOOR PATIENTS IN THE J. J. HOSPITAL.

Dr. S. S. BATLIWALA (Bombay City, North): (*a*) Will Government be pleased to state whether it is a fact that the J. J. Hospital authorities with a view to retrench their expenses on account of financial stringency, have reduced the number of patients in the hospital and have asked a very large

number to leave the hospital ? If so, how many patients were asked to go, and whether two of the number died in the compound of the hospital ?

(*b*) Will Government be pleased to lay on the table any orders they may have issued to the J. J. Hospital authorities regarding the above matter ?

The Honourable Dr. R. P. PARANJPYE : Attention is invited to the Press Note* issued on the subject on 19th August 1922, a copy of which is placed on the table.

Dr. S. S. BATLIWALA : Is it not a fact that Colonel Carter began discharging the patients from the hospital long before the reply from the Government was due to him ?

The Honourable Dr. R. P. PARANJPYE : I cannot give any further information than what is contained in the answer given.

Dr. S. S. BATLIWALA : Has Colonel Carter given any explanation about his premature action ?

The Honourable Dr. R. P. PARANJPYE : I want notice of that question.

Mr. KANJI DWARKADAS : Are Government satisfied with the action taken by Colonel Carter in the matter ?

The Honourable Dr. R. P. PARANJPYE : The honourable member asks Government to express an opinion and not information.

The Honourable the PRESIDENT : Anything may be an opinion ; but this is a question of fact. You may say " I decline to answer " because the honourable member is in your view asking for an opinion ; but you cannot say that the question is inadmissible ; so far as I am concerned I cannot say that it is inadmissible.

The Honourable Dr. R. P. PARANJPYE : This is practically asking for opinion and I decline to answer.

Mr. G. B. TRIVEDI (Thana District) : Was a memorandum from the Finance Department sent to the Senior Medical Officer of the J. J. Hospital saying that he will be personally held responsible for exceeding the budget grant ?

The Honourable the PRESIDENT : A supplementary question must arise out of the original question and the answer. Now the answer refers to the Government Press Note. I do not know what that Press Note contains. But if the Press Note does contain something relating to the matter to which you refer, then your question will be in order.

Mr. G. B. TRIVEDI : Yes, Sir, it does relate to the original matter. I want to know whether it is not a fact that a memorandum from the Finance Department was sent to the Senior Medical Officer of the J. J. Hospital saying that he will be personally held responsible if he exceeds the budget grant.

The Honourable Dr. R. P. PARANJPYE : I want notice of the question.

Mr. S. K. BOLE (Bombay City, North) : May I know who is responsible for sending the retrenchment order to the hospital authorities ?

The Honourable Dr. R. P. PARANJPYE : The order was meant for all senior medical officers and it was sent by the office.

Mr. G. B. TRIVEDI (Thana District) : Did not Government say in the Press Note that the order was not meant for the J. J. Hospital authorities ?

( Mr. Bole rose at the same time. )

The Honourable the PRESIDENT : One at a time, please.

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* Kept in Secretary's office.

Mr. S. K. BOLE : Who is responsible for sending the order of retrenchment which was not meant for the J. J. Hospital authorities ?

The Honourable Dr. R. P. PARANJPYE : That has been already answered.

Mr. S. K. BOLE : No, Sir. That was in regard to some other point, and it was not a direct answer to this question.

The Honourable the PRESIDENT : Some answer has been given. If you are not satisfied with it you have got your remedy by raising a debate on the proper occasion.

Mr. KANJI DWARKADAS : Did the authorities of the J. J. Hospital write back to the Government saying that there was a mistake in sending them the circular ?

The Honourable Dr. R. P. PARANJPYE : No.

Mr. DIPCHAND T. OJHA (Karachi City) : Was there any consultation in the Government House, before this order was sent, between the Ministers and Members of the Executive Council concerned ?

The Honourable the PRESIDENT : That question is out of order. It is trying to peep into domestic matters.

### CHIPLUN-ULWA RAILWAY.

Mr. G. C. BHATE (Kolaba District) : Will Government be pleased to state the progress of the survey of the Chiplun-Ulwa in the Kolaba District ?

The Honourable Sir IBRAHIM RAHIMTOOLA : The Agent, Madras and Southern Maratha Railway Company, reports that the field work of the survey is completed and that the plans, estimates and reports relating thereto will be completed by the end of October next.

### DHARAMTAR-MAHABLESHWAR ROAD.

* Mr. G. C. BHATE (Kolaba District) : (*a*) Will Government be pleased to state whether it is a fact that there are no culverts and irrigation drains on the Dharamtar-Mahableshwar road between 15 and 25 miles ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : (*a*) There are no culverts but there are 18 slab drains, one bridge and one causeway.

### PAY OF TEACHERS IN THE SUBORDINATE EDUCATIONAL SERVICE.

* Sardar M. M. BIRADAR (Southern Division) : Will Government be pleased to state the net amount spent in 1914 on the item of pay of the teachers in the subordinate educational service and what will be the expenditure on the same item in 1922 after the revision of their pay has been granted ?

The Honourable Dr. R. P. PARANJPYE : The figures of expenditure are as follows :—

| | Rs. |
|---|---|
| 1913-1914 .. .. .. | 4,09,000 |
| 1921-1922 .. .. .. | 7,63,000 |

The figures of personnel for the same years are also given below :—

| | |
|---|---|
| 1913-1914 .. .. .. | 433 |
| 1921-1922 .. .. .. | 529 |

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

LEASING OF CHAWLS TO MILLOWNERS.

Mr. S. K. BOLE (Bombay City, North): Will the Government be pleased to state whether they have been informed of the desire of certain millowners that chawls built by the Development Directorate should be leased to the millowners ?

The Honourable Sir CHIMANLAL H. SETALVAD : Yes, in one case.

Mr. A. N. SURVE (Bombay City, North) : Is it the intention of Government to lease these chawls to millowners ?

The Honourable Sir CHIMANLAL SETALVAD : It is suggesting action.

INFANT CLASSES IN MUNICIPAL AND LOCAL BOARD SCHOOLS.

* Rao Bahadur G. K. CHITALE (Ahmednagar District): Will Government be pleased to supply the following information :—

(1) Number of boys and girls in the infant classes in every municipal town (in the Presidency proper) on 31st March 1915.

Number promoted to :—
1st standard in 1916.
2nd standard in 1917.
3rd standard in 1918.
4th standard in 1919.

(2) Number of boys and girls in the local board vernacular schools in every district (in the Presidency proper) on 31st March 1915.

Number promoted to :—
1st standard in 1916.
2nd standard in 1917.
3rd standard in 1918.
4th standard in 1919.

The Honourable Dr. R. P. PARANJPYE : Statements† furnishing the information required are laid on the Table.

BOMBAY MEDICAL SERVICE.

*Khan Bahadur D. B. COOPER (Satara District) : Will Government be pleased to state if it is a fact that some of the 1st grade men of the Bombay Medical Service who had to revert from acting Civil Surgeoncies and who had been sub. *pro-tem.* senior Assistant Surgeons drawing Rs. 360 per mensem according to the old scale of pay, after reversion are given only Rs. 280 as their present starting pay, when the new revision of pay, meant to give relief to the Civil Assistant Surgeons, came into force, and if so whether the Government intend to take any action to remove the hardship ?

The Honourable Dr. R. P. PARANJPYE : Certain Provincial Medical Officers were temporarily drawing higher pay than that of their permanent grades as Acting Civil Surgeons or sub. *pro-tem.* senior Assistant Surgeons solely owing to the absence of Indian Medical Service Officers on war service. Their starting pay on reversion in the revised scale has been fixed in accordance with the pay of their permanent grades in the service. Government do not therefore propose to take any action in the matter.

* This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

† Kept in Secretary's office.

ROAD SIDE TREES.

*Khan Bahadur D. B. COOPER (Satara District): Is Government aware of the fact that during the recent years branches of the road-side trees giving shade to the users of the provincial roads in the districts of Poona and Satara are annually being cut off for the supply of fuel to the steam rollers working on these roads, thereby greatly decreasing the value and utility of these trees, which have been brought up with great care during the past several decades, and if so, do they intend to take any action to stop the trees being further damaged ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Yes. Fuel obtained from lopping branches of trees overhanging the roads and from felling of dead and withered trees is being used for working steam road rollers in the Satara District. Such cutting off is, however, required to remove branches overhanging the road and adjoining fields as they would otherwise obstruct traffic and be a source of danger to vehicles, etc., or would retard cultivation where they overhang cultivated fields. In the Poona District the branches are sold and are not made use of as fuel for steam road rollers. Government do not intend to stop this practice as the disfigurement of the road-side trees is purely temporary since new growth rapidly replaces the loppings.

BOMBAY EDUCATIONAL SERVICE.

* Dr. K. E. DADACHANJI (Bombay City, South): Will the Government be pleased to state :—

(*a*) If the Bombay Educational Service scheme was sanctioned by the Secretary of State in November 1919 ?

(*b*) If the officers concerned had an understanding from the Director of Public Instruction that effect will be given to the Indian Educational Service scheme from 1st December 1919 ?

(*c*) Whether the reorganisation of the deputy collectors took effect from the 1st December 1919, Public Works Department Provincial Service from 1st February 1920, and that of the mamlatdars though promised from 1st March 1921, took effect from 1st March 1920 ?

(*d*) If such be the case, why is the Provincial Service of the Educational Department treated differently and given effect to from 1st April 1921, though the Government of India announced in 1917 their intention to consider the recommendations of the Public Services Commission in connection with the Educational Department prior to their recommendations in connection with other departments ?

The Honourable Dr. R. P. PARANJPYE: (*a*) No. The Secretary of State for India merely sanctioned the minimum and maximum pay suggested by the Government of India for the Provincial Educational Service and left it to each local Government to settle the details of the scheme including the fixing of the date of introduction of the new scale that might be sanctioned by it.

(*b*) If, as is presumed, the question refers to the Bombay Educational Service, the answer is in the negative.

(*c*) Yes. It is observed that in the case of mamlatdars there was no intention to sanction the revision from 1st March 1921.

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

(*d*) Attention is invited to the reply given to part (*a*) of the question asked by Rao Saheb P. G. Halkatti (Bijapur District) at the meeting of the Legislative Council held on 10th March 1922.

CASES TRIED BY HONORARY MAGISTRATES IN BOMBAY.

*Mr. D. B. DALAL (Panch Mahals District): Will Government be pleased to lay on the table a statement of the cases with their results instituted during the quinquennium ending 1920 before the stipendiary and honorary magistrates in the city of Bombay under the Bombay C. P. C. A. Act ? Will Government be pleased to state whether the provisions of the Act are being enforced systematically in the other parts of the Presidency and, if so, with what results ?

The Honourable Mr. M. H. W. HAYWARD : A statement ‡ showing the number of cases dealt with under the Act in all places in the Presidency to which the Act has been extended, is placed on the table.

BROACH-JAMBUSAR RAILWAY.

† Sardar Khan Bahadur ADARJEE M. DALAL (Broach District) : Are Government aware that on the Broach-Jambusar Railway the passengers are put to great hardship for want of accommodation of waiting sheds on all the stations on the line and especially at Vejalpore, Amod and Jambusar stations on which there is a large rush of passengers and the passenger traffic is very considerable ?

The Honourable Sir IBRAHIM RAHIMTOOLA : The Agent, Bombay Baroda and Central India Railway Company, reports that there are 3rd class waiting sheds at stations on the Broach-Jambusar Railway, their size being 23′ × 14′. The daily average number of outward passengers by each train is—

| | |
|---|---|
| Vejalpore .. .. .. .. | 72 |
| Amod .. .. .. .. | 92 |
| Jambusar .. .. .. .. | 92 |

The Agent also states that there are many more important stations than the ones on this railway that need larger waiting sheds and which have to wait until funds permit their extension.

TANKS OF TATA HYDRO-ELECTRIC COMPANY.

Rao Saheb D. P. DESAI (Kaira District) : (*a*) Will Government be pleased to state whether the tanks of the Tata-Hydro-Electric Company, near Lonavla and Khandala are leaky ?

(*b*) that either owing to the existence of the tanks or owing to the leakage of water therefrom the above two towns and the surrounding locality have become malarious and unhealthy, and

(*c*) that the medical aid at the above two places is quite insufficient to cope with the increased number of cases.

(*d*) If the reply to the above be in the affirmative, will Government be pleased to state what steps they have taken or intend to take to remove the general unhealthiness in the area affected ?

* This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

† This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

‡ Kept in Secretary's office.

The Honourable Dr. R. P. PARANJPYE : (*a*) Yes.

(*b*) The Khandala-Lonavla area has not become malarious as a result of the hydro-electric works. But leakage has caused an extension of the malaria season in that area.

(*c*) No such complaint has been received by Government.

(*d*) When the prevalence of malaria at Lonavla and Khandala was brought to the notice of Government a committee with the Director of Public Health and the Sanitary Engineer to Government as members was appointed to investigate the whole question. This committee submitted to Government with their opinions ten drainage schemes prepared by the Engineer of the Tata Hydro-Electric Power Supply Company, Limited, with the object of preventing the formation of swamps and carrying of all surplus water through natural nullahs to the edge of the ghats. The committee also made certain recommendations. The schemes with the suggestions and recommendations of the committee have been approved, and the Collector of Poona has been directed to see that they are carried out as early as possible by the Tata Company in consultation with the Sanitary Engineer to Government.

Rao Saheb D. P. DESAI : May I know how many tanks are leaky ?

The Honourable Dr. R. P. PARANJPYE : I want notice of that question.

Rao Saheb D. P. DESAI : May I know the increased amount of malaria cases due to leakage ?

The Honourable Dr. R. P. PARANJPYE : It is hardly possible for me to carry all these figures in my head.

### TEMPORARY AND PROVISIONAL ALLOWANCES.

*Rao Saheb D. P. DESAI (Kaira District) : Will Government be pleased to state—

(*a*) Whether in the last budget a provision was made for temporary and provisional allowances to assistant masters and assistant deputy educational inspectors ?

(*b*) If so, how much of this amount was spent in giving these allowances and how much of it was saved ?

The Honourable Dr. R. P. PARANJPYE : (*a*) A provision of Rs. 1,16,000 was made in 1920-1921 for the purpose referred to.

(*b*) The amount spent was Rs. 91,000 the balance being saved.

### RAILWAY ACCIDENTS.

† Rao Saheb HARILAL D. DESAI (Ahmedabad City) : Will Government be pleased to state—

(*a*) the regulation distance which a broad gauge railway is bound to maintain between two railway lines in order to prevent accidents during the crossing of trains ?

(*b*) whether the distance between the double lines between Ahmedabad and Barejdi is according to the regulation or less ? If less, by how much ?

(*c*) whether there are other sections of the Bombay, Baroda and Central India Railway which offend against this regulation ? If so, which ?

(*d*) whether they are aware that very serious accidents to human life have occurred lately between Ahmedabad and Barejdi during the crossing of trains at night ?

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* This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

† This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

(*e*) whether any steps have been taken to enforce the regulation about distance between two rail roads on railway administrations in the Presidency wherever there are double lines ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) Minimum distance apart of two parallel lines of railway is 14 feet—centre to centre of track. This distance is increased on curves as required according to the radius of the curve by distances varying from 9 inches for a 1 deg. (5,730 feet radius) curve, 13 inches for a 2 deg. (2,865 feet radius) curve and so on—up to 36 inches for a 10 deg. (573 feet radius) curve. Allowance is also made for water columns, signal posts and columns of overbridges so that the outermost edge on portion is not within 7 feet distance of centre of track. (Track is 5' 6" from inner edge to inner edge of rail heads).

(*b*) The distance between the double line Ahmedabad to Barejdi is in places less than this standard distance and varies from 13 feet 2 inches to 12 feet—the infringement therefore varies from 10 inches to 2 feet. It may be mentioned here that when the line was built the standard distance at the time was laid down as 12 feet and several lines in India should have this 12 feet distance in old station yards.

(*c*) There are small lengths of infringements between :—

Colaba and Marine Lines.
Charni Road and Santa Cruz.
Vile-Parle and Malad.
Kandivlee and Bassein Road.
Nalla-Sopara and Virar.

(*d*) The following is a list of accidents :—

| Date. | Between or at Stations. | Accident. | Slight, serious or fatal. |
|---|---|---|---|
| 5th April 1922 .. | Barejdi .. | Two passengers injured .. | 1 Fatal.<br>1 Serious. |
| 16th April 1922 .. | Barejdi .. | One passenger injured .. | Slight. |
| 27th April 1922 .. | Ahmedabad and Barejdi . | One III Class passenger injured. | Slight. |
| 7th June 1922 .. | Ahmedabad and Barejdi . | Three III Class passengers injured. | 2 Serious.<br>1 Slight. |
| 13th June 1922 .. | Barejdi Yard .. | Three III Class passengers injured. | 2 Serious.<br>1 Slight. |
| 15th June 1922 .. | Vatva and Barejdi .. | Four III Class passengers injured. | Serious. |

(*e*) Steps are taken by the Railway on their own initiative as opportunities arise and funds permit to remedy these infringements. Notice is also taken of them by the Senior Government Inspectors at their periodical and annual inspections and the special attention of the railway administrations drawn to such as are the more dangerous and the more immediately remediable.

No new works are passed for public traffic unless the regulation distance between tracks is observed. It should be understood that the work of respacing tracks involves the entire rearrangement of lines, the rebuilding to a large extent of platforms and adjacent buildings in station yards and between stations the extension or widening of bridges. Therefore the opportunities afforded by the work of relaying rails, regirdering bridges, remodelling and enlarging stations, have to be awaited and in cases where heavy work is involved the expense of rebuilding for the sake of respacing tracks only would of course be prohibitive.

MAHOMEDAN SCHOLARS IN GOVERNMENT SCHOOLS AND COLLEGES.

*Mr. KANJI DWARKADAS: Will the Government be pleased to give the number of Mahomedan students receiving scholarships from the Government in the—

(*a*) Primary Schools,

(*b*) Secondary and High Schools and

(*c*) Colleges,

in different parts of the Presidency ?

The Honourable Dr. R. P. PARANJPYE: The accompanying statement ‡ gives the information required.

PROBATIONERS IN THE BOMBAY PORT TRUST.

†Mr. C. M. GANDHI (Surat City): Will Government be pleased to state—

(*a*) How many probationers in the docks and in the Secretary's office of the Bombay Port Trust have been recently brought out from England ?

(*b*) What are their qualifications ?

(*c*) What qualifications are required for Indian probationers of the same class ?

(*d*) Is there any difference in the qualifications of Indian and non-Indian probationers ?

(*e*) Are there any printed regulations laying down the qualifications of these Indian and European officers ? If yes, will a copy thereof be made available for the information of the Council ?

(*f*) If not, will Government be pleased to state what the difference is ? and

(*g*) Will Government be pleased to state why is such a difference kept ?

The Honourable Sir CHIMANLAL SETALVAD: (*a*) One European probationer for the docks department and one for the Secretary's office have been engaged in England during the past year. One Indian probationer with English university education has been engaged in the same year for the Secretary's office.

(*b*) Good educational qualifications, supported (in the case of European probationers) by approved service in the war.

(*c*) English university or technical training.

(*d*), (*f*) and (*g*) No.

(*e*) No. The qualifications are decided by the trustees when applications are invited, having regard to the duties for which the probationer is required.

Mr. C. M. GANDHI: You say, there is no difference between the qualifications for Indian probationers and non-Indian probationers. In your answer to question (*d*) you say "Good educational qualifications". Does it mean university education or something different ?

The Honourable Sir CHIMANLAL SETALVAD: Good educational qualifications include university qualifications.

Mr. C. M. GANDHI: Have these probationers who have been appointed had any good university training ?

* This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

† This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

‡ *Vide* Appendix A.

The Honourable Sir CHIMANLAL SETALVAD : I require notice of that question.

Mr. G. B. TRIVEDI : There is the question, " Is there any difference in the qualifications of Indian and non-Indian probationers ? "

The Honourable Sir CHIMANLAL SETALVAD : The answer is there. The answer is in the negative.

Mr. G. B. TRIVEDI : My question is, is there any difference in the qualifications of Indian and European probationers ?

The Honourable Sir CHIMANLAL SETALVAD : The answer has been given, Sir.

The Honourable the PRESIDENT : The original questions on the subject are (*d*), (*f*) and (*g*) of Mr. Gandhi, and the Honourable the General Member's answer is " No ".

Mr. G. B. TRIVEDI : But, Sir, (*b*) and (*c*) of the reply show that there is a difference.

The Honourable the PRESIDENT : That is an argument. You may draw any inference you like and, on a proper occasion, raise a debate. But there is the answer. It is no use repeating a question when an answer is given.

FREE QUARTERS TO OFFICERS OF BOMBAY PORT TRUST.

* Mr. C. M. GANDHI (Surat City) : Will Government be pleased to state if—

(*a*) Any officers of the Bombay Port Trust drawing Rs. 500 or more are supplied with quarters ?

(*b*) If so, how many ?

(*c*) How many of them are Indians ?

The Honourable Sir CHIMANLAL SETALVAD : Yes.

(*b*) 49, of whom 23 are provided with free quarters and 26 pay rent at 10 per cent. of salary and lose their house allowance.

(*c*) One provided with free quarters.

FREE QUARTERS TO CLERKS IN THE BOMBAY PORT TRUST.

* Mr. C. M. GANDHI (Surat City) : Will Government be pleased to state—

(*a*) The total number of clerks in the employ of the Bombay Port Trust drawing salaries between Rs. 50 and Rs. 250 per mensem ?

(*b*) Have any of these been given quarters, or given house rent allowance ? if so, how many ?

The Honourable Sir CHIMANLAL SETALVAD : (*a*) 1,581.

(*b*) Yes ; 49 have been provided with quarters and 286 are drawing house allowance.

FREE QUARTERS TO MENIAL SERVANTS AND LABOURERS OF THE BOMBAY PORT TRUST.

* Mr. C. M. GANDHI (Surat City) : Will Government be pleased to state—

(*a*) The total number of menial servants and labourers employed by the Bombay Port Trust ?

(*b*) Have any of these been provided with quarters ? If, so, how many ; if not, why not ?

* These questions were asked at the meeting held in July 1922, when *ad interm* replies were given.

The Honourable Sir CHIMANLAL SETALVAD: (*a*) Approximately 11,700.

(*b*) 5,100.

UP-KEEP OF MOTOR CARS SUPPLIED TO OFFICERS OF THE BOMBAY PORT TRUST.

* Mr. C. M. GANDHI (Surat City): Will Government be pleased to state—

(*a*) The total expense of the up-keep of 17 motor cars supplied by the Bombay Port Trust to its several officers ?

(*b*) Do Government pay for the up-keep of the motor cars used for official purposes by their officers of other departments ?

The Honourable Sir CHIMANLAL SETALVAD: (*a*) The total expenditure during the year 1921-22 amounted to Rs. 61,094-14-11.

(*b*) This has already been replied to.

STANDING COMMITTEES.

Mr. V. R. GUPTE (Poona City): (*a*) Will the Government be pleased to state if they have considered the question of attaching standing committees to Government departments as recommended by the Joint Select Parliamentary Committee on the Government of India Bill, 1919, in paragraph 10 of their report ?

(*b*) If so, with what result ?

The Honourable Sir CHIMANLAL SETALVAD: The Joint Committee recommended the desirability of attaching standing committees to various departments for the consideration of His Excellency the Governor. His Excellency the Governor came to the conclusion that it was undesirable to create such standing committees for the present.

CONFERENCE OF LIBERALS.

Mr. V. R. GUPTE (Poona City): (*a*) Will the Government be pleased to state if the Indian members of the Executive Council took part in the proceedings of the recent conference of Liberals held in Bombay early in May last with the express consent of the Government ?

(*b*) If not, is it intended to extend the same latitude to all Government servants without distinction ?

The Honourable Sir CHIMANLAL SETALVAD: (*a*) Individual Members of the Executive Council are bound by the accepted principle of joint responsibility.

(*b*) The question does not arise.

MOVE TO MAHABLESHWAR.

Mr. V. R. GUPTE (Poona City): Will the Government be pleased to state the amount of expenditure out of public revenues on account of their last move to Mahableshwar ?

The Honourable Mr. H. S. LAWRENCE: A reference is requested to the answer to the question by Mr. B. G. Pahalajani.

RETRENCHMENT COMMITTEE.

Mr. V. R. GUPTE (Poona City): Will the Government be pleased to state the progress which the Retrenchment Committee has made with its work and when its report is expected ?

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* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

The Honourable Mr. H. S. LAWRENCE: The committee has already submitted proposals to Government regarding the Bombay Secretariat, the Police, Revenue, Judicial and Educational Departments and travelling and other allowances. Government are unable to say when the committee will send its final report as this must depend on the committee itself.

EDUCATIONAL GRANTS TO MUNICIPALITIES.

Mr. V. R. GUPTE (Poona City): (*a*) Will the Government be pleased to mention the names of municipalities that have so far come forward to avail themselves of their offer of a two-thirds grant for the purpose of introducing compulsory primary education within their limits?

(*b*) If the answer to (*a*) is in the negative, will they be pleased to state if they have enquired into the reasons of their unwillingness to do so?

(*c*) If so, with what results?

The Honourable Dr. R. P. PARANJPYE: (*a*) to (*c*) Enquiries are being made.

AYURVEDIC MEDICINES.

Mr. V. R. GUPTE (Poona City): Will the Government be pleased to state if a member of the Indian Medical Service has been placed on special duty for the purpose of investigating the possibilities of the Ayurvedic and other indigenous systems of medicine, as promised in the last September session of the Council?

The Honourable Dr. R. P. PARANJPYE: No.

ADMISSION TO GRANT MEDICAL COLLEGE.

Mr. IBRAHIM S. HAJI (Bombay City): Is Government aware that about 40 students, who have passed the Preliminary Scientific Examination, have been refused admission to the second year in the Grant Medical College? If so, will Government be pleased to state whether students were informed in due time regarding restriction of admission to the college? If so, when; if not, why?

The Honourable Dr. R. P. PARANJPYE: Yes. The difficulty about admissions to the Grant Medical College has been generally known to the students for the last two years.

Mr. IBRAHIM S. HAJI: Was the difficulty made known by some authoritative letters sent by the principal of the college?

The Honourable Dr. R. P. PARANJPYE: It has been published in the press for a long time.

Mr. IBRAHIM S. HAJI: What press?

The Honourable Dr. R. P. PARANJPYE: The public press.

Mr. IBRAHIM S. HAJI: In how many papers was it published?

The Honousable Dr. R. P. PARANJPYE: I believe it was published in all the papers.

Mr. IBRAHIM S. HAJI: Was it after the refusal of admission or before?

The Honourable Dr. R. P. PARANJPYE: Before.

ANGLO-URDU SCOOL AT NASIK.

Mr. IBRAHIM S. HAJI (Bombay City): Is Government aware of the urgent demand of an Anglo-Urdu School at Nasik? If so, will Government be pleased to explain why the Anglo-Marathi middle school for girls was opened when there was already an aided girls' school?

The Honourable Mr. R. P. PARANJPYE: Government are aware of the demand for an Anglo-Urdu school but on account of financial stringency the matter has had to be postponed. Enquiries are being made with regard to the Anglo-Marathi middle school for girls.

HEAD MASTER: URDU CLASS.

Mr. IBRAHIM S. HAJI (Bombay City): Will Government be pleased to state —

(*a*) whether or not the principal P. R. Training College, Ahmedabad, had proposed to have the post of the head master. Urdu class, as belonging to the Bombay Educational Service essentially, when he submitted the proposals for the opening of the third year class in 1920 ?

(*b*) whether the Educational Inspector, Northern Division, while forwarding this proposal had suggested the inclusion of the post in subordinate Educational Service as a temporary measure being fully apprehensive of its early development into an independent college as no retrenchment policy was then foreshadowed by him ?

(*c*) Is it not that the retrenchment policy has set in and in view of the recent Government Resolution on the Urdu class at Poona and Ahmedabad the development of the classes into colleges will be abnormally delayed for a decade at least ?

The Honourable Dr. R. P. PARANJPYE: (*a*) and (*b*) The answer to these parts is in the affirmative.

(*c*) From the Government Resolution referred to it will be seen that Government have decided that there is no need at present for more than *one* full Urdu Training College and that such a college should be located at Poona which is more convenient and central, and the possibility of hiring suitable buildings in Poona for the proposed college is being considered. It is not possible, however, to say when the college can be started.

URDU TRAINING CLASSES.

Mr. IBRAHIM S. HAJI (Bombay City): (*a*) Will Government be pleased to state if the pay of some of the members of the Urdu staff of Urdu training classes had been revised as per Government Resolution, Educational Department, No. 737 of 15th November 1921 ?

(*b*) If so, then why the pay of the remaining members of the staff was not revised ?

(*c*) Did the said resolution suggest any exclusion of any of these posts directly or indirectly ?

(*d*) Is it not expressly put that men getting certain amount before March 1921 should get such and such an amount after 1st March 1921 ?

(*e*) What members of the Urdu staff would have been benefited under this ?

The Honourable Dr. R. P. PARANJPYE: (*a*) to (*e*) The Government Resolution quoted does not apply to the graduate and undergraduate staff of the training classes referred to, which has hitherto been treated as special and outside the cadre of secondary teachers. The question of bringing the staff under the operation of the resolution is under consideration.

DUTY ALLOWANCE TO HEAD MASTERS.

Mr. IBRAHIM S. HAJI (Bombay City): (*a*) Is it a fact that duty allowance is granted to the head masters of the training schools and classes ?

(*b*) Is this granted to the head master, Urdu training class, Hubli ?

(*c*) If so, why are the head masters of the Urdu training class at Poona and Ahmedabad only not given the benefit of this allowance ?

The Honourable Dr. R. P. PARANJPYE : (*a*), (*b*) and (*c*) A duty allowance of 20 per cent. of pay and not exceeding Rs. 30 per mensem has recently been sanctioned for the posts of headmasters of the District Training Schools. The question of the grant of a similar allowance to headmasters of the Urdu training classes in Hubli, Poona and Ahmedabad is under consideration.

HEADS OF VERNACULAR TRAINING INSTITUTIONS.

Mr. IBRAHIM S. HAJI (Bombay City) : Will Government be pleased to state—

(*a*) whether the posts of the heads of the vernacular training institutions teaching the full three years' course are considered superior to the posts of the district deputy educational inspectors by the Educational Department ?

(*b*) If so, why the same principle is not applied in the case of the head master, Urdu training class; Ahmedabad, and the divisional deputy inspectors for Urdu schools who are all now classed in the Bombay Educational Service ?

The Honourable Dr. R. P. PARANJPYE : Attention is invited to the reply given at the last session to a similar question put by Khan Saheb A. M. Mansuri.

MAHOMEDANS IN THE DIRECTOR OF PUBLIC INSTRUCTION'S OFFICE.

Mr. IBRAHIM S. HAJI (Bombay City) : Is Government aware that there is not a single Mahomedan officer in the office of the Director of Public Instruction either as a superintendent or assistant director ?

The Honourable Dr. R. P. PARANJPYE : Yes. None of the three posts (two of Superintendent and one of Assistant Director of Public Instruction) referred to is at present held by a Mahomedan.

SCHOLARSHIPS FROM SIR MAHOMED YUSUF'S CHARITABLE ENDOWMENT FUND.

Mr. IBRAHIM S. HAJI (Bombay City) : Will Government be pleased to state whether 22 scholarships from the Sir Mahomed Yusuf's Charitable Endowment Fund are to be awarded to students for studies in Arts only ?

(*b*) If so, will Government state whether they have considered the claims of students for scholarships for studies in medicine, engineering, commerce, economics, veterinary and law ?

The Honourable Dr. R. P. PARANJPYE : (*a*) Yes.

(*b*) No.

GRANT TO BHANDARKAR INSTITUTE.

Mr. IBRAHIM S. HAJI (Bombay City) : Will Government be pleased to state the following—

(*a*) the terms and conditions on which Rs. 6,000 were given to the Bhandarkar Institute, Poona, for the projected edition of the Mahabharata ?

(*b*) for how many years this work has been going on, and how long it is likely to go on ?

(*c*) for how many years past Government have paid such amount ?

(*d*) Do Govenrment intend to continue giving this grant of Rs. 6,000 every year till the work is completed ?

The Honourable Dr. R. P. PARANJPYE : (*a*) An annual grant equal to one-third of the expenditure but not exceeding Rs. 6,000 has been sanctioned. No conditions have been attached to the grant.

(*b*) The work has been going on since 1919 and is expected to take about 13 years more.

(*c*) The grant was paid for the first time last year.

(*d*) Yes.

### CHARLOTTE LAKE AT MATHERAN.

Mr. M. A. HAVELIVALA (Bombay City): Is it a fact that this year there was a shortage of water in Charlotte lake at Matheran owing to the dam not having been closed till the 12th of October last thus preventing the water from flowing over the dam and keeping it 6 or 7 feet lower than it ought to have been, and what precaution do Government intend to take to avoid such an occurrence in future ?

The Honourable Khan Bahadur SHAIK GHULAM HUSSAIN: Yes. There was some shortage of water, but it was unavoidable with the present risky and defective arrangement of the cumbrous wooden sluice gate which could not be opened as usual in the latter half of June last year on account of early rain. This year the gate has already been opened and the bed will be flushed and cleaned and the gate refixed in good time in September. It is also proposed to provide a proper iron sluice gate, with a screw gear arrangement to operate it from the top of the dam, for which plans and estimates are being prepared by the Sanitary Engineer.

### NAVALGUND MUNICIPALITY.

Mr. C. C. HULKOTI (Dharwar District): (*a*) Is it a fact that four municipal councillors at Navalgund resigned their seats by reason of the arrest of a brother councillor ? If so, who are the four members that resigned, and what are the grounds as stated in the resignation ?

(*b*) Is it a fact that the collection work of license fees was stopped as a protest by other municipal councillors against the action of the sub-inspector ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : The answer is in the negative.

### GRANT TO MUNICIPALITIES FOR FREE AND COMPULSORY EDUCATION.

Mr. B. V. JADHAV: (*a*) Will Government be pleased to give the names of the municipalities who have resolved to introduce free and compulsory education within their area and have applied for a grant equal to two-thirds of their expenditure on primary education ?

(*b*) Will Government be pleased to say whether the municipality of Talegaon in the district of Poona has applied for the grant ?

(*c*) When was the application first made ?

(*d*) How is the application disposed of ?

The Honourable Dr. R. P. PARANJPYE: (*a*) Bandra, Byadgi, Satara City, Dhulia and Islampur.

(*b*) Yes.

(*c*) The information has been called for.

(*d*) It was rejected.

Mr. B. V. JADHAV : Will Government be pleased to state why the application of the Talegaon municipality was refused ?

The Honourable Dr. R. P. PARANJPYE : If the municipality will make out a case, the matter will be gone into.

DEPUTY COLLECTORS AND MAMLATDARS OF BACKWARD CLASSES IN CENTRAL DIVISION AND SOUTHERN DIVISION.

*Mr. B. V. JADHAV: Will Government be pleased to state the number of deputy collectors and mamlatdars belonging to the Maratha and other backward communities in the Central and Southern Divisions ?

The Honourable Sir IBRAHIM RAHIMTOOLA: A statement † furnishing the information is put up on the Council table.

ADMISSION TO COLLEGE OF ENGINEERING.

Mr. B. V. JADHAV: (*a*) Will Government be pleased to state how many candidates belonging to the Mahomedan and backward communities including the Marathas were admitted into the College of Engineering this term ?

(*b*) Will Government be pleased to give the number of candidates from these communities who applied for admission and the reason for their rejection ?

The Honourable Dr. R. P. PARANJPYE: (*a*) and (*b*) Sixteen Mahomedan candidates and 34 candidates from the backward Hindu communities, including Marathas, applied for admission, and of these 7 and 9 respectively were admitted. The total number of students admitted was 60. Applications of other candidates were rejected as the other candidates belonging to these communities were better qualified, and the number of places reserved for each of these communities was six.

Mr. B. V. JADHAV: May I know when orders will be passed in this matter ?

The Honourable Dr. R. P. PARANJPYE: Orders are being issued.

POSTS OF DEPUTY SUPERINTENDENTS OF POLICE.

‡Mr. S. T. KAMBLI (Dharwar District): Will the Government be pleased to state—

(*a*) the total number of deputy superintendents of police in the Presidency of Bombay ;

(*b*) the year or years when these posts were created ;

(*c*) the total pay and allowance for the years 1920-21 and 1921-22 of these officers ?

(*d*) When were separate establishments given to these officers ?

(*e*) What is the annual amount of expenditure for the establishments created or given to these officers ?

(*f*) Does the Superintendent of Police do any criminal investigation work in those districts where there are deputy superintendents of police ?

(*g*) If not, since when has the Superintendent of Police ceased to do any criminal work in such districts ?

The Honourable Mr. M. H. W. HAYWARD: (*a*) and (*b*) Already answered.

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*This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

† *Vide* Appendix B.

‡This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

(*c*) The Accountant General is unable to give the figures for 1920-21 as they have not been separately recorded, but the total pay for 1921-22 was Rs. 2,01,000 in round numbers.

(*d*), (*e*), (*f*) and (*g*) Already answered.

### RECRUIT AND WAR FUND IN DHARWAR.

* Mr. S. T. KAMBLI (Dharwar District): Is it a fact that a large amount out of (*a*) recruit funds and (*b*) war funds remains unspent in Dharwar District ?

(*b*) If so, what are the said amounts and where are they invested ? or with whom are the unspent balances lying now and for what purpose does the Government intend to use or utilise the said amount or amounts ?

The Honourable Mr. IBRAHIM RAHIMTOOLA: (*a*) There is a balance of Rs. 62,157-2-10 from the District Recruit Fund. There is no such fund as the "War Fund".

(*b*) The balance at the credit of the District Recruit Fund is at present deposited in the Huzur Treasury and it is proposed to withdraw this amount and invest it in a bank where it can earn interest. Government cannot utilise the amount, but the subscribers of the fund intend utilising it for the building of a War Memorial Technical Institute at Dharwar.

### SUPERIOR SCHEDULED POSTS FOR I.C.S.

Mr. B. G. PAHALAJANI on behalf of Mr. G. H. KASSIM (Karachi City): (*a*) Will the Government be pleased to state the total number of superior (as defined in the Government of India Act, 1919) scheduled posts for the I.C.S. in Bombay Presidency on (1) the executive side and (2) judicial side ?

(*b*) How many of these superior posts are listed as open to the members of the Provincial Service on (1) the executive side and (2) the judicial side ?

(*c*) What proportion do these superior listed posts form of the total superior posts on (1) the executive side and (2) the judicial side ?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) 52 executive and 34 judicial including the 4 District Judgeships recently sanctioned by the Secretary of State.

(*b*) 2 executive and 3 judicial; but it is proposed eventually to include the 4 District Judgeships recently sanctioned by the Secretary of State.

(*c*) 26 to 1 on the executive and 34 to 7 on the judicial, including the 4 District Judgeships recently sanctioned by the Secretary of State.

### LOCAL ALLOWANCE TO DRAFTSMEN AND SUB-OVERSEERS OF THE PUBLIC WORKS DEPARTMENT IN KARACHI.

Mr. B. G. PAHALAJANI on behalf of Mr. G. H. KASSIM (Karachi City): (*a*) Is it a fact that local allowance is drawn by draftsmen and sub-overseers of the Public Works Department in Karachi ?

(*b*) If so, to state the special circumstances justifying the special treatment in their cases ?

The Honourable Sir CHIMANLAL SETALVAD: (*a*) The reply is in the affirmative.

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

(*b*) As the revised scales of pay sanctioned for the classes of establishment referred to were framed so as to be made applicable to men at all places in the Presidency, those stationed at Karachi have been allowed to draw the local allowance sanctioned for that place in pre-war times owing to the high cost of living there.

C. I. D. POLICE, SIND.

Mr. B. G. PAHALAJANI on behalf of Mr. G. H. KASSIM (Karachi City) : (*a*) Will Government be pleased to state what qualifications are necessary for the appointment to the post of the head clerk to the Superintendent of Police, Sind C. I. D., created in November 1921 ?

(*b*) Was the present incumbent of the above post a permanent sub-inspector before his appointment to the said new created post ?

(*c*) What examination has the present incumbent passed ?

The Honourable Mr. M. H. W. HAYWARD : (*a*) A good general education, especially in English, experience and knowledge of office routine and absolute trustworthiness.

(*b*) Yes.

(*c*) The Matriculation Examination of the Bombay University and all the departmental tests for sub-inspectors of police in Sind.

POLICE, SIND.

Mr. B. G. PAHALAJANI on behalf of Mr. G. H. KASSIM (Karachi City) : (*a*) Will Government be pleased to state if it is a fact that Mr. Jeoosingh Hemansingh, head clerk to the District Superintendent of Police, Karachi, was granted two advance increments by the Commissioner in Sind owing to which he was permitted to draw Rs. 135 instead of Rs. 125 per month ?

(*b*) Whether he drew his increased rate of pay from 20th July 1920 and Rs. 145 on 20th July 1921 ?

(*c*) Whether under the orders of Government he should have continued to draw Rs. 135 up to 20th July 1922 and thereafter Rs. 140 ?

The Honourable Mr. M. H. W. HAYWARD : The Commissioner in Sind has been requested to report. I think the Commissioner's reply has been received and I hope to give a definite answer during the course of this session.

SIND RAILWAY POLICE.

Mr. B. G. PAHALAJANI on behalf of Mr. G. H. KASSIM (Karachi City) : Are Government aware that the offices of the Superintendent of Police, Karachi and Sind Railways, have not been inspected since 1918 ?

The Honourable Mr. M. H. W. HAYWARD : The Commissioner in Sind has been requested to report. In this case also a reply has been received and I will give a definite answer during the course of this session.

INSUFFICIENCY OF BEDS IN THE J. J. AND G. T. HOSPITALS.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities) : (*a*) Will Government be pleased to state the number of beds for Indian indoor patients in the J. J. and G. T. Hospitals, Bombay, existing in 1900 and 1921 ?

(*b*) Is it a fact that several patients are refused admission in consequence of insufficiency of number of beds ?

(*c*) Will Government be pleased to state whether in the wards of indoor patients in the J. J. Hospital several cases of diarrhœa and dysentery occur owing to the building being wet and leaky in the monsoon and thereby causing fatality amongst the patients ?

The Honourable Dr. R. P. PARANJPYE :

| | 1900. | 1921. |
|---|---|---|
| (*a*) (1) J. J. Hospital .. .. .. | 352 | 296 |
| (2) G. T. Hospital .. .. .. | 120 | 120 |

(*b*) Admission has to be refused at times for want of accommodation.

(*c*) There have been no cases of diarrhœa or dysentery in the hospital other than those admitted with these diseases.

### FIREWORKS ACCIDENTS IN AHMEDABAD.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): (*a*) Will Government be pleased to state how many accidents to persons and property occurred in Ahmedabad in the years 1920, 1921 and 1922 owing to sparks rising from fireworks known as 'Golas' discharged in marriage processions ?

(*b*) Are any licenses issued for such fireworks ?

(*c*) Is any notice taken by the police of such accidents ?

(*d*) What steps do Government propose to take in the matter ?

The Honourable Mr. M. H. W. HAYWARD : (*a*) During the years 1920, 1921 and 1922, only one such accident was reported, which was on 21st May 1922, when two persons were slightly burnt through sparks from a rocket (Gola) falling on their clothes at Saraspur village.

(*b*) Permission is given by the city magistrate and city police inspector and occasionally by the District Magistrate and the District Superintendent of Police.

(*c*) The only accident which has occurred was enquired into but no further action taken.

(*d*) The city police inspector has always excluded rockets, whenever permission was granted by him. After the accident referred to above, the city magistrate was requested by the District Superintendent of Police not to give permission for rockets in the city, as they were liable to cause a serious conflagration in a congested city like Ahmedabad. No further steps are proposed by Government.

### GRANT MEDICAL COLLEGE.

* Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): (*a*) Is it a fact that owing to large increase in the number of students in the Grant Medical College, students do not get sufficient opportunities for clinics in the wards ?

(*b*) Will Government be pleased to state if any proposals have been made to allow students opportunities for clinics in the G. T. Hospital as has been done in the case o the Cama Hospital ?

(*c*) Will Government be pleased to state if any honorary surgeons are attached to the G. T. Hospital ? If not, why not ?

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

The Honourable Dr. R. P. PARANJPYE: (*a*) Yes.

(*b*) Yes.

(*c*) No. This hospital treats cases of accidents mainly and is not suited for teaching students. No need for appointing honorary surgeons to it has therefore been felt.

### HONORARY MAGISTRATES IN AHMEDABAD.

* Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to give the following information regarding the working of the honorary magistrates in the city of Ahmedabad during 1921 :—

(*a*) the names of magistrates;

(*b*) the number of days of work in court during the year in actually trying cases;

(*c*) the average hours of work per day;

(*d*) the number of cases tried and disposed of during the year?

The Honourable Mr. M. H. W. HAYWARD: (*a*) Already answered at the February 1922 session.

(*b*) All working days of the year.

(*c*) 3 to 5 hours a day.

(*d*) 3,726.

The replies refer to the work of two out of the six magistrates.

### MOTOR ACCIDENTS IN AHMEDABAD.

† Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): How many accidents occurred in Ahmedabad by motors and motor trucks during the years 1921 and 1922 up to the end of June?

(*a*) The number of offenders who are prosecuted;

(*b*) Who are acquitted;

(*c*) Discharged, and

(*d*) Sentenced?

The Honourable Mr. M. H. W. HAYWARD:

| | 1921. | 1922 upto the end of June. |
|---|---|---|
| By motors .. .. .. | 26 | 8 |
| By motor trucks .. .. .. | 18 | 15 |
| (*a*) .. .. .. | 8 ‡ | 7 § |
| (*b*) .. .. .. | .. | .. |
| (*c*) .. .. .. | 4 | 2 |
| (*d*) .. .. .. | 4 | 2 |

### LIQUOR TRAFFIC IN POONA.

* Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Are Government aware of the recommendations made by the Local Advisory Committee of Poona regarding the liquor traffic in Poona and if so, what steps do Government intend to take on them?

The Honourable Mr. C. V. MEHTA: The action taken on the resolutions of the Local Advisory Committee is indicated in Government Resolution || No. 4309, dated 24th July 1922 of which a copy is laid on the Council table.

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* These questions were asked at the meeting held in February 1922, when *ad interim* replies were given.

† This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

‡ One driver absconded after the accident and has not been traced.

§ 3 under trial.

|| *Vide* Appendix C.

### RAILWAY ACCIDENTS.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Will Government be pleased to state—

(*a*) how many accidents to passengers travelling by railway trains occurred between the stations of Ahmedabad and Barejdi in 1921 in consequence of being struck by open doors of passenger trains or by protruding articles loaded in goods trains coming from the opposite direction ?

(*b*) what is the minimum distance prescribed to be kept between up and down railway lines running parrallel to each other ?

(*c*) by how much and up to what length does the distance between the up and down main lines from Ahmedabad to Barejdi fall short of the prescribed minimum ?

(*d*) when do the railway authorities expect to bring the distance between the two lines to the prescribed limit ?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) One.

(*b*) 14′ 0″.

(*c*) From 10″ to 2′ from Miles 229 to 303½, 304¾ to 308 and 308¾ to 309½.

(*d*) Probably within the next six months.

### DEPUTATION OF CIVIL CLERKS TO MILITARY DEPARTMENT.

* Mr. DIPCHAND T. OJHA (Karachi City): (*a*) Is Government aware that at the outbreak of the war when civil clerks were being deputed to the Military Accounts Department peremptory orders were issued by the Commissioner in Sind to the effect that those clerks who refused to accept the posts in the Military Department were given choice between acceptance of the deputation and dismissal from Government service; on the other hand a promise was held out to those who volunteered and served in the Military Department to the satisfaction of their superiors that they would on reversion to their respective districts be noted for special promotions ?

(*b*) Will Government kindly state how many and which clerks were so deputed from the province of Sind and also give in detail the permanent promotions given to them after reversion purely in consideration of their such deputation ? This information may kindly be specified for each district in Sind separately.

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) No peremptory orders of the kind were issued by the Commissioner in Sind nor were any such promises made.

(*b*) A statement † is placed on the table.

### COST OF MAHABLESHWAR EXODUS.

* Mr. B. G. PAHALAJANI (Western Sind): Will the Government state the total cost of the Mahableshwar exodus including allowances drawn by the officers and the establishment ?

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* These questions were asked at the meeting held in February 1922, when *ad interim* replies were given.

† Kept in Secretary's office.

The Honourable Mr. H. S. LAWRENCE: The total cost in round figures was:—

| | Rs. |
|---|---|
| (1) Travelling allowances of Members of Council, Ministers and Officers .. .. .. .. | 6,000 |
| (2) Other allowances to Honourable Members, Ministers and Officers .. .. .. .. | *Nil.* |
| (3) Travelling allowances of establishments .. .. | 5,000 |
| (4) Allowances to clerks and peons .. .. | 13,000 |
| (5) Contingencies .. .. .. .. | 10,000 |
| | 34,000 |
| 2. The cost of moving to Poona must however be excluded as Government would proceed there in any case; this comes to .. .. .. .. | 20,000 |
| 3. The net cost of the move to Mahableshwar is therefore | 14,000 |

INFORMATION REGARDING MULLAS ATTACHED TO SCHOOLS IN SIND.

*2. Mr. B. G. PAHALAJANI (Western Sind): Will the Government supply the following information:—

(*a*) Names of schools in Sind local board to which a Mulla has been attached.

(*b*) The date of his appointment.

(*c*) Date of his discontinuance and the reason.

(*d*) The number of boys at the time of his appointment and the number of boys brought by him.

The Honourable Dr. R. P. PARANJPYE: (*a*), (*b*), (*c*) and (*d*) A statement † furnishing the information required is placed on the table.

PIER IN THE RATNAGIRI BUNDAR.

Rao Saheb L. V. PARULEKAR (Ratnagiri District): (*a*) Will the Government be pleased to state about what time the work of erecting a pier in the Ratnagiri Bundar is likely to be commenced and in what stage the matter stands to-day?

(*b*) Will the Government be pleased to state what is the exact spot at which the pier is to be erected in the Bundar?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) and (*b*) The Landing and Wharfage Fees Fund Committee has resolved that the proposed pier should not be constructed.

WHARFAGE FUND ACCOUNT.

Rao Saheb L. V. PARULEKAR (Ratnagiri District): Will the Government be pleased to state what is the amount of the Wharfage Fund to-day and what is the state of its accounts? Will the Government be pleased to lay on the Council table full up-to-date accounts of the Fund?

* This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

† *Vide* Appendix D.

The Honourable Sir IBRAHIM RAHIMTOOLA: The receipts and expenditure of the Landing and Wharfage Fees Fund, since its inception, are as under :—

| Year. | Receipts. | Expenditure. |
|---|---|---|
| | Rs. | Rs. |
| 1916-17 .. .. .. | 3 | .. |
| 1917-18 .. .. .. | 75,444 | .. |
| 1918-19 .. .. .. | 90,847 | 19,958 |
| 1919-20 .. .. .. | 99,216 | 13,415 |
| 1920-21 .. .. .. | 1,04,641 | 83,478 |
| 1921-22 .. .. .. | 1,31,060 | 61,804 |
| Total .. | 5,01,211 | 1,78,655 |
| 1922-23 Estimates .. .. | 1,07,654 | 1,06,217 |
| Grand total .. | 6,08,865 | 2,84,872 |

The balance is invested in Government securities from time to time in order to finance large works such as landing places, etc., in the near future in accordance with the decision of the Landing and Wharfage Fees Fund Committee. The fund had an invested balance on 1st July 1922 of the face value of Rs. 3,40,600, exclusive of the loan of rupees one lakh granted by Government.

The details of the expenditure incurred during the years 1918-19 to 1920-21 are contained in Statement II (Appendix N) printed on page 589 of Volume III, Part I, of the official report of the Bombay Legislative Council for the year 1921, with reference to a question on the subject put by Mr. A. N. Surve, printed on page 164 of the same report. A similar statement showing the expenditure from the fund for the year 1921-22 is placed on the Council table. A copy of the budget estimates of the fund for the current year is also placed on the Council table. Appendix IV to the budget estimates gives details of the proposed expenditure for the current year.

### WATER TAPS AT PANDHARPUR.

Mr. R. G. SALGAR (Sholapur City): Are Government aware that no water taps have been fitted on the bank of river Bhima at Pandharpur for the use of pilgrims to avoid them from drinking river water? What steps does the Government intend to take in this matter?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: This is a matter that concerns Pandharpur municipality.

### COW KILLING.

Mr. R. G. SALGAR (Sholapur City): Will Government be pleased to state what municipalities in this Presidency have resolved not to give permission to kill cows and which of them have obtained sanction from Government to such resolution?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The information is being collected.

SHOLAPUR CRIMINAL TRIBES SETTLEMENT.

Mr. R. G. SALGAR (Sholapur City): Will Government be pleased to state—

(*a*) Since how many years the Government is in possession of the Sholapur Criminal Tribes Settlement ?

(*b*) How many boys and girls are taught and what education is given? To what castes do the teachers belong ? By whom they are examined every year and with what result ?

(*c*) Is the whole Settlement given in charge of the American Mission and, if so, from how many years ?

(*d*) What sort of religious teaching is given to Kaikadis and Bhamtas ?

(*e*) Are they provided with separate water pipes as per their religion ?

(*f*) All the young boys and girls are separated from their parents and sent to Bijapur and Hubli, for education. In what schools they are taught and by what class of teachers ?

(*g*) Is it a fact that the boys and girls having reached the marriageable time are refused by the officers in charge to be handed over to their parents ?

(*h*) Whether the rights of Settlement people in respect to their land before they were kept in the Settlement are infringed ?

The Honourable Mr. M. H. W. HAYWARD: (*a*) The old Settlement was established in 1914 and the new Settlement in 1917.

(*b*) The annual administration reports give the details as to education. The teachers are Christian and the examiner is the deputy educational inspector.

(*c*) Since 1917.

(*d*) They attend voluntarily occasional Christian services.

(*e*) There are water pipes at the old settlement and a well at the new settlement.

(*f*) Three children have been sent to the Children's Home at Bijapur, six to that at Hubli and six to that at Baramati. They attend the same schools as the other settlement children at those places.

(*g*) Some children are retained in the Children's Homes for a year or two after puberty.

(*h*) No, Sir.

REVISION SETTLEMENT IN MALSIRAS AND KARMALA TALUKAS.

* Mr. R. G. SALGAR (Sholapur District): (*a*) Will Government be pleased to state the scale of revision settlement in the Malsiras and Karmala talukas of the Sholapur district ?

(*b*) Are the new rates higher than the other talukas of the district ?

(*c*) Are the Government aware that the Karmala and Malsiras talukas are famine-stricken talukas of the district ?

(*d*) What is the average annewari of Karmala and Malsiras talukas comparing the same with Sholapur and Barsi talukas during the last ten years ?

The Honourable Sir IBRAHIM RAHIMTOOLA replied: (*a*) A statement† showing the rates of revision settlement is herewith appended.

* This question was asked at the meeting held in February 1922, when an *ad interim* reply was given

† *Vide* Appendix F.

(*b*) Yes. New rates of Malsiras are higher than those of Madha, Karmala, Pandharpur and Sangola talukas (*vide* statement).

(*c*) Yes.

(*d*) A comparative annevari statement* is appended.

CONVICTION IN CONNECTION WITH MULSHIPETHA SCHEME.

† Mr R. G. SALGAR (Sholapur City): What is the number of persons that are convicted for different number of offences in April and May 1922 at Mulshipetha? How many of them are Mavlas (male and female) and what was the number of *khatedars* if there be any and how many of the company's servants were in them?

The Honourable Mr. M. H. W. HAYWARD: A statement‡ is now laid on the table.

WATER SUPPLY TO DEPRESSED CLASSES.

Mr. A. N. SURVE (Bombay City, North): (*a*) Are Government aware that the depressed classes in the village "Ghoday", taluka Khed, district Poona, have to depend for their water supply on the lower end of the stream in the village, which gets dried up in summer and in other seasons is insufficient?

(*b*) Will Government be pleased to state if they intend to adopt any measure to afford relief to the said depressed classes with reference to that grievance?

The Honourable Dr. R. P. PARANJPYE: (*a*) The river runs for the greater part of the year; in the hot weather the requisite water is obtained by digging "hels" in the bed of the river.

(*b*) The matter is one for the local board concerned.

Mr. A. N. SURVE: With reference to the answer to clause (*a*), am I to understand that the members of the depressed classes are not inconvenienced in the hot weather to get adequate water supply?

The Honourable Dr. R. P. PARANJPYE: If the honourable member will refer to the answer to (*b*), he will see that it is a matter for the local board concerned.

Mr. G. B. TRIVEDI (Thana District): Have Government considered the advisability of drawing the attention of the local board concerned to the matter?

The Honourable Dr. R. P. PARANJPYE: Has the honourable member first of all drawn the attention of the local board to the matter?

Mr. G. B. TRIVEDI: I will do it now, but have not Government considered the advisability of doing so?

The Honourable the PRESIDENT: What is the use of putting your question in that form, in a round about way? You may ask "Have Government called upon the local board to remedy the grievance?"

Mr. G. B. TRIVEDI: Have Government drawn the attention of the local board concerned to this matter?

The Honourable Dr. R. P. PARANJPYE: No.

Mr. G. B. TRIVEDI: Is it not the duty of the Government to draw the attention of the local board to the matter?

The Honourable the PRESIDENT: You may ask "Why not?"

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* *Vide* Appendix G.

† This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

‡ *Vide* Appendix E.

Mr. G. B. TRIVEDI: Why not?

The Honourable Dr. R. P. PARANJPYE: The honourable member who asks the question should do it first of all.

Mr. G. B. TRIVEDI: But is not Government responsible for that?

The Honourable the PRESIDENT: Government are responsible; you ought to know it, everybody knows it. It is no use wasting time over a thing which every one of us knows. Government are responsible, and if they have not fulfilled their responsibility, you may adopt measures for bringing a vote of censure against them. It is no use asking questions.

Mr. S. K. BOLE (Bombay City, North): Will Government do it now?

The Honourable the PRESIDENT: You ought to know that it is quite out of order as directing a particular action. Government have not done it before now, and Government are not going to do it now. That is what they say. The matter is one for the local board concerned.

### PIER AT RATNAGIRI.

2. Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to lay on the table copies of plans of the pier to be built in the port of Ratnagiri by the Wharfage Fund Committee, and to state if they are aware that the proposed site will prove inconvenient to the passengers?

The Honourable Sir IBRAHIM RAHIMTOOLA: The Landing and Wharfage Fees Fund Committee has resolved that the proposed pier should not be constructed.

### MALEGAON SHOPKEEPERS' REPRESENTATION.

Mr. G. B. TRIVEDI (Thana District): (*a*) Have Government received any representations from Hindu and Mahomedan shopkeepers of Malegaon dealing with Momin weavers against Notification No. 152, Home Department?

(*b*) What is their justification in making these shopkeepers responsible for payments on past dealings?

The Honourable Mr. M. H. W. HAYWARD: I am precluded from replying to this question at present as some of the shopkeepers have made similar enquiries in the civil court.

### SITTING OF THE APPEAL COURT IN THE HIGH COURT.

Mr. G. B. TRIVEDI (Thana District): Will Government be pleased to state—

(*a*) The total number of days on which there was only one appeal court sitting in the Bombay High Court during 1921-22?

(*b*) The total number of days on which there were two such appeal courts sitting during the same period?

(*c*) Have they any information as to the decrease of work in the office of the Registrar, Appellate Side, of the Bombay High Court?

The Honourable Mr. M. H. W. HAYWARD: (*a*) 135.

(*b*) 49.

(*c*) The statement* laid on the table does not indicate any decrease in the work in the office of the Registrar.

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* Kept in Secretary's office.

The Honourable the PRESIDENT : I appoint the following honourable members to form the panel of chairmen for the current session :—

Dr. K. E. Dadachanji, Mr. A. Greville Bullocke, Rao Bahadur R. R. Kale and Mr. M. A. Havelivala.

## A BILL FURTHER TO AMEND THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1890 (BILL No. XIII OF 1921).

(As amended by the Select Committee.)

The Honourable Mr. M. H. W. HAYWARD : Mr. President, I present the report of the select committee on the Bill further to amend the Prevention of Cruelty to Animals Act, 1890. I observe that the select committee was ordered to report within a month ; that order was on the 21st of July, and the select committee had to report by the 21st of August, but the report is dated the 29th of August. I therefore formally request that an extension of eight days from the 21st to the 29th of August may be granted by this Council.

The Honourable the PRESIDENT : Under what Standing Order you ask for that extension ?

The Honourable Mr. M. H. W. HAYWARD : Under Standing Order VIII, 7 (1). It is a formal matter.

The Honourable the PRESIDENT : Does the Council condone the delay ?

Question put and agreed to.

The Honourable Mr. M. H. W. HAYWARD : I rise, therefore, to move the second reading of the bill, and I will briefly remind the Council of the purposes of this bill. Clause 2 amends section 3 of the Act in order to make cruelty in private an offence equally with cruelty in public : also it is so amended as to make cruelty an offence when a man abandons or turns loose any animal to starve. The only objection which was raised to this provision when the bill was last discussed was that the definition of this was rather wide and that it would be dangerous to apply these provisions straight away to rural areas. These objections were considered by the select committee, and they have suggested amendments in the bill which, I think, would probably remove or meet those objections. They have provided that the cruelty should be thus defined :

Second reading.

> " Without sufficient excuse neglect to supply any animal under his control with sufficient food or drink ; "

The objection was that a man would otherwise be punishable if he permitted his animal to starve because he was starving himself, or if he abandoned or turned loose an animal because he was not physically strong enough to retain it. The select committee have therefore added the words " without sufficient excuse ", and I hope this amendment will meet that objection raised in the Council. The other objection has been met by the provision that the new offences should not be applied to any place without a notification extending it to that place, such as the city of Bombay. I hope, therefore, that clause 2 amending section 3, as now modified by the select committee, will meet with the approval of the members of this House.

Clause 3 amends section 6 of the Act. The amendments are intended to provide that the cost of treatment of an animal in hospital should in certain circumstances be borne entirely by the owner. Members of this House will remember that this arose from the protest of the Charitable Hospital in Bombay that owners who ill-treated their animals left the animal in the hospital indefinitely without taking the trouble to enquire whether the animal was

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getting better, and eventually refused to have anything to do with it. The hospital would expend a great deal of money on it, but had no means of recovering the cost. It was thought only fair that the owner should be made liable for the cost of the treatment. An objection was raised at the last meeting that this was rather hard on some poor men who would not be able to pay anything at all, beyond the value of the animal. This had been partly met already by giving the magistrate power if he should find the animal to be incurable to order it to be sent to the Pinjrapole or to have the animal destroyed. The magistrate could not do this before and the animal had to stay in the hospital until it was cured and then had to be sold for what it was worth. This amendment had provided a remedy to a great extent, because a magistrate would readily make an order sending an incurable animal to the Pinjrapole or directing it to be destroyed. The objection has been further met by the select committee by making it clear that the owner should not necessarily have to bear the extra expenses in all circumstances, and that it should be left to the discretion of the magistrate to take into consideration all the circumstances and decide whether the owner should pay any of the expenses over and above the cost of the animal. If the animal was unreasonably detained in the hospital, the magistrate would have power to decide that the expense shall be borne in part by the hospital. So if the owner were practically a pauper the magistrate would have power to excuse payment or make him pay according to his means towards the expenses in hospital. The select committee have made their modification by inserting words in sub-clause (8) to provide that the excess " to such extent as shall seem reasonable " shall be recoverable from the owner as a fine on the order of a magistrate. A proviso is further put in to make sure that the magistrate will consider the objections of the owner : " provided that no such order shall be made without the owner being given a reasonable opportunity of urging his objections, if any, before the magistrate. " These modifications should remove the objections previously felt by some members of the House.

These are the only two amendments proposed by the bill, the one to make cruelty to an animal in a private place an offence as in public and to make it cruelty to turn loose or neglect an animal by not supplying it with food or starving it, and the second to provide that the owner who is guilty of ill-treatment shall pay such part of the expenses of treatment in the hospital as may be ordered by the magistrate.

I think, Sir, that the bill as now modified by the select committee meets practically the objections previously raised to the bill. There are some minor amendments I see moved by my honourable friend opposite, which are matters of minor importance which can be disposed of when we deal with the bill clause by clause. For the present, therefore, I move that the bill be now read a second time.

The Honourable the PRESIDENT : I now adjourn the meeting of this Council until His Excellency's arrival at 3-30.

His Excellency the Governor was met by the President on arrival and a procession was formed. His Excellency then took his seat upon the dais.

## HIS EXCELLENCY THE GOVERNOR'S SPEECH.

Rising to address the Council His Excellency said :—

Gentlemen,

During the session which is about to commence you will be invited to consider proposals of far-reaching importance to this Presidency, but before

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you commence your labours I desire to call your attention to some aspects of the general situation, a situation moreover which it is possible now to review with greater precision and with finer judgment than would have been possible a year or even a few months ago.

Ever since the inauguration of the Reform Scheme this Presidency, in common with the rest of India, has passed through some periods of acute agitation and disturbance, during some stages of which movements gravely prejudicial to public peace and to the trade of the country had to be met and disposed of. A movement avowedly revolutionary in its aims and in its methods, designed grotesquely enough to shatter by all means in its power the first step towards that responsible government which all parties had hitherto united in asking for, was set on foot and made some considerable appeal to the imagination, though only in rare cases to the reason, of some section of the general public. An appeal made by popular leaders, especially when intended to exploit such fine qualities as national feeling and patriotism, has seldom in any country failed to get a response, but if such an appeal is made when food is scarce and prices high, when in fact the economic sores consequent upon the stress of a prolonged war are still open, no one can be surprised that it should have a disturbing effect upon the public mind. In the attempt therefore which I and my Government have made rightly to appraise during the last two years the situation which confronted us, we have done our utmost to deal with the situation very calmly and to judge it chiefly in terms relative to the responsibility of its leaders than to the youthful folly of some of its followers. My Government were, as you know, determined that the leaders responsible for these lawless activities should be brought to justice, once patience and tolerance had been given the fullest trial; but I am glad to say that we were enabled to vindicate the law without putting into force any other machinery than the ordinary tribunals of the land, and without inflicting penalties in any large degree upon those who, owing to youth and ignorance rather than to criminal or revolutionary tendencies, had been misled into breaches of public order. Whilst I am glad that this should have been possible I cannot in any way minimise the ill-effects of the non-co-operation propaganda which has done much harm not only to administrative progress but has also had an inevitable reaction on the opinion outside this country as to the capacity of India for early self-government: at the same time I desire most cordially to acknowledge the steady judgment and sound political sense not only of this Council but of the public at large in all parts of this Presidency which has given unmistakeable proofs of its loyal support to my Government in the task of restoring order. It is not the first time that I have had occasion to pay my tribute to the soundness of public opinion in this Presidency. In all moments of public excitement I and my colleagues have always relied firmly on that support and that support has never failed us.

Not the least encouraging sign of the present situation is the fact that in several parts of the country some of these political groups who were once adherents of the non-co-operation programme and of the boycott of the machinery of responsible government are now, if rumour speaks truly, coming round to a view favourable to entry into the Councils, and have decided in future to prosecute their political aims through the constitutional machinery expressly set up for that purpose. This is a distinct step in advance and in itself a valuable testimony to the ever-increasing prestige of the reformed

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councils. I look forward with confidence to the time when all sections of political thought who are bent on constructive work will seek election to the councils and thereby enhance their value not only as a legislative but as an educational machine in the art of self-government for the people at large.

In this connection I should wish to refer to some criticisms which I have seen voiced in the press regarding the appearance upon public platform of the Ministers and Members of my Executive Council. I understand that this criticism is less directed to the Ministers who are directly responsible to their electors, than to the Members of Council, but even in regard to the latter it appears to me that the more members of Government, be they Ministers or Members of Council, can come into touch with the public, the more they can explain Government policy and inform the public of what Government is doing, the better for all concerned. It is, I believe, argued by some that as public servants they are not entitled to do so, but this is an entire misconception, for in the first place a Member of the Executive Council even where he is a Member of the Services, is also a member of Government, and as such is I venture to think fully entitled with the concurrence of his colleagues to reply to criticism wherever and whenever it may seem advisable. More than this, any public servant may make public utterances provided only that before doing so he received the special sanction of Government to do so.

I turn now to refer to some of the main administrative activities of Government during the last two years. I have already referred to my Government's action in regard to law and order, which are the first duties of any Government, but no Government can expect to retain the support and confidence of the public on a negative issue : we have to show to you and to the public at large what positive steps we have taken in education, in social reform, and in the improvement of trade and labour conditions generally for the improvement of the lot of the people committed to our charge. Let me speak first of finance. This Council has imposed upon Government an extremely onerous task of drastic retrenchment, and at the wish of the Council we have agreed, over and above the heavy reduction we had effected before presenting our last budget, to make a further reduction of no less than 60 lakhs of rupees. I am not of opinion that such sudden and wholesale reductions are really sound policy or true economy in the long run, for they bring a very serious dislocation in the whole administration. We agreed to meet Council's wishes because we were convinced that the policy actuating members was sound in intention and actuated by the best motive. I am afraid that we shall only be able to carry out our promise to this Council by continuing for the remaining six months the most rigorous economy in every branch of the administration, but our officers in all areas are giving Government their keenest co-operation in this matter and I have every hope of success. I recognise moreover that in the case of a Government such as this, whose borrowing operations are larger, the maintenance of the credit of Government is of the first importance, and that that credit cannot be maintained in deficit budgets. The confidence of the public in the credit of this Government is however amply demonstrated by the high values of its first loan issue, and the recent splendid contributions of the public to the Government of India loan, in the proceeds of which it was known that Bombay was to benefit, are another testimony to the same confidence. I believe I am correct in stating that this Presidency's contribution was more than twice that of Calcutta, and more than half of the total Indian subscription. I desire therefore to express on behalf of my Government my thanks to the public who

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have given us this fine support and encouragement. I have only two other urban matters to refer to, the first relates to the development schemes regarding whose detailed progress I hope to speak further a few weeks hence, and I confine myself to saying that in every branch the works are proceeding at fully their anticipated rate of progress, and that every sign available to us, both financial and constructive, confirms the confidence that we have from the beginning placed in the schemes. Let me repeat that the whole object of these great schemes has been to put the great port and city of Bombay in a position to handle its trade in the cheapest and most efficient manner so as to attract on account of its cheap facilities the maximum of trade possible, to provide through this trade an ever increasing quantity of work and wages for its labouring classes, and to secure that all classes and particularly the working classes shall have, as a result of them, healthier and happier surroundings. I can think, gentlemen, of no more beneficent acitivities for any Government to be engaged upon than these. We have however not been content with this aspect of the urban problem alone. We have inaugurated the first Labour Office as such in India, designed to examine in a scientific and exact manner the real condition of work and wages in the city. Reliable deductions cannot in my opinion be fully drawn from the statistics compiled for some little time, but already the Labour Office under the able guidance of its director, Mr. Shirras, has gained a great deal of public confidence and support. Over 3,000 working class budgets have already been analysed and a detailed enquiry into the wage rates of some 250 occupations in the Presidency have been completed. We have further investigated through the medium of an impartial and energetic committee various means by which the disorganisation consequent upon dispute between employer and employee can be avoided, and the disputes themselves settled quickly and fairly without serious economic dislocation. In the sphere of labour legislation we have had under consideration legislative proposals in regard to factories, trade unions, employment agencies, workmen's compensation and workmen's breach of contract. My general view is that legislation on these matters requires extreme prudence and caution until we have more relevant statistical data upon which safely to form a mature and considered judgment, lest injury be done to trades on which the workmen themselves rely for their livelihood.

So far I have spoken of our work in the large cities and industrial centres. But we have not neglected the rural areas, but have been careful of their material and their moral interests. It will be unnecessary for me to describe in detail the great chain of the Deccan irrigation works which are as rapidly as possible being brought to completion over the whole of that area of the Presidency which is liable to be impoverished by famine. The mighty reservoirs of Chankapur and Lake Beale have been completed. The works at Bhandardara and Bhatgar are progressing fast and are nearing completion—and yet I doubt if this Council or the public at large at all fully realise the huge nature of these enterprises which have scientifically but quietly matured under the beneficent auspices of Government. The Bhandardara dam is actually the highest in the world and at a cost of a million and a half of rupees will command and give absolute immunity from famine to no less than 200,000 acres. The Bhatgar dam is even more important; in size it is considerably larger than the world famous Assouan dam in Egypt, and will irrigate three lakhs of acres in what was once the most famine-stricken part of the Presidency. What does the completion of these great works mean

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for this Presidency? It means just this, that the revenue we have drawn from agriculture is being invested in large sums for the agriculturist, so that in vast tracts where for years—generations and centuries past—his livelihood has been yearly at the mercy of an adverse climate and a precarious rainfall, in the near future there will be assured to him that regular supply of water which is all that is necessary to ensure the richest and most profitable crops. Previous generations have been impoverished and their capital resources sapped by bad seasons: the great immigrations, too, of whole villages into famine camps and labour works produced a special shock to the whole countryside. Not only will this evil be averted but we have done all that we could to restore these capital resources and put them on a sound footing by encouraging and fostering the growth of co-operative societies and banks.

So much for irrigation in the Deccan, but it is right that I should also refer to the needs of Sind in reference to the great project of the Sukkur Barrage. Let me preface my remarks by saying that this scheme, the largest ever yet undertaken in India, has preoccupied my Government for a long time past for the finance of so large an undertaking is of the greatest complexity and difficulty. We have however come to the conclusion that in view of the inception of the Sutlej Barrage project it is now impossible to delay this scheme any further if the agriculture of Sind is to be given that protection and assistance that it looks for from this Government. We are, I hope, on the point of solving the financial problem involved. We believe that the capital sums required can be found, but we do not think it just to the rest of the Presidency that the interest charges upon so large a work should be paid to any large extent out of the normal revenues of the Presidency lest the due balance of progress in other branches of administration should be interfered with. We are sanguine that we shall be able to put proposals before you before the close of this year which will command your approval and that of the public whom you represent.

The Agricultural Department also under the direction of my honourable colleague, the Minister for Agriculture, has achieved much. In regard to cotton it has been ascertained by exhaustive tests the types of seed which are most suitable to the various areas, and has produced large quantities of that seed for distribution. In Surat district alone 200,000 acres are planted with such seed, giving an increased return on the district cotton crop of 20 lakhs of rupees; and the same procedure is being developed all over the Presidency.

In regard to sugarcane, it has investigated and almost perfected methods which will reduce the high cost of cultivation by 40 or 50 per cent. and have introduced and imported cane now in general use in water-logged areas which gives a yield of 7,000 lbs. of *gul* per acre as against 2,000 lbs. from local cane. It has introduced in the Konkan an improved rice seed which has increased the return in production to the rayot by 29 per cent. In addition to these special activities the department has successfully endeavoured to raise the general standard of cultivation by such measures as the popularisation of the iron plough, the increase of the supply of artificial manure, the investigation of the sub-soil water supply by boring experiments carried out at cost price, or free of charge if unsuccessful. And lastly a determined campaign has been carried on against the more deadly and widespread of the crop diseases, a campaign which is meeting with considerable success and if completely

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successful may increase the total value of the jowar crop of the Presidency by some two crores of rupees.

I have only to refer in conclusion to the fact that my Government proposes to ask your assent to a measure introducing free and compulsory education into this Presidency. This momentous step has not been decided upon hastily or without the most careful consideration of the situation, but we are so firmly convinced of the importance of giving this privilege at an early date to those who most need it that we have little doubt that this Council will not only pass the bill but also those financial proposals, commencing now and to be continued as need demands over the next ten years, in order to make our proposals effective. If you decide to adopt our proposals this Presidency will not only be the first part of India to adopt this policy but will once more be leading the way in the cause of educational and social reform. One word of caution must however be said and this is that the speed at which primary education can increase can only be in proportion as this Council and the municipal and local authorities are prepared to find new sources of revenue for the furtherance of this great reform.

Lastly you will be asked to pass into law a bill framed by my Government to give to local boards certain increased powers which they have for long been urgently in need of in order to carry out their responsibilities to the general public.

Gentlemen, I have alluded to only some of the activities of the Government designed to promote the real welfare of the people of this Presidency, but I have said enough I hope to demonstrate that whether it be in the protection of public order—that first ingredient of trade and prosperity,—or in the cause of education, of labour problems, of housing, of agriculture or of local self-government, this administration is forging ahead on steady, prudent, but definitely progressive lines, consonant not only with the high traditions of this great Presidency but also, as I believe, in true sympathy with the high aims and ideals of this Legislative Council.

On the conclusion of His Excellency's speech the Council was adjourned by the President till 4-30 p.m.

His Excellency the Governor then left the Council Hall.

*After recess.*

The Honourable the PRESIDENT: Order, order.

## PREVENTION OF CRUELTY TO ANIMALS BILL.

(Motion for second reading further considered.)

Mr. C. M. GANDHI (Surat City): Sir, in speaking on the second reading of this bill, I must acknowledge that the select committee has tried to meet the objection which was raised at the first reading thereof with regard to clause 2 by adding the words "without sufficient excuse." But I think it does not remove all cause for anxiety which one feels that the section, when put into operation, is likely to be misconstrued or construed in such a way as to cause unnecessary hardship to the poor owner of the animal who may find himself in a predicament of not being able to supply food to the animal. The words used are "without sufficient excuse neglects," and I am afraid when a person is charged under that section, the burden of showing that he had sufficient excuse would be thrown on the accused, and cases might arise in which he may not be able to convince the magistrate that he had a sufficient excuse.

[Mr. C. M. Gandhi]

I think the section ought to be so worded as to leave no possibility of doubt that the burden is on the prosecution to show that this was a neglect, a wilful neglect, or that the failing to supply the animal with food was with the intention to starve the animal.

I think the Honourable the Home Member will consider whether it will not be proper to have the clause so amended as to carry out the desired object. It is no doubt true that the operation of this section is not going to be automatically applied to districts to which the Act has not been made applicable now, but it depends upon a notification to be issued by Government. It would be a very good thing if Government were to define its policy and let us know at this stage as to what would be the circumstances which Government would consider as justifying them to issue a notification for the extension of this clause to particular areas.

Then, in another part of this bill no doubt the power is given to a magistrate to direct the animal to be sold when the owner refuses or neglects to pay the cost of its treatment, but I think even after that, an option ought to be reserved to the owner to be able to retain his animal if he is willing to offer the price of the animal that the animal would fetch at a public auction.

These are some of the suggestions which I venture to make and which I hope the Council will take into consideration.

Dr. S. S. BATLIWALA (Bombay City, North): Mr. President, my honourable friend Mr. Gandhi says that the onus of proof will be left on the accused when he will be called upon to prove that he had sufficient excuse for the neglect to supply any animal under his control with sufficient food and drink. Mr. Gandhi wants that that onus should be transferred to the prosecution side. I think it is but fair that any one, who neglects an animal for some particular reason which is best known to himself, that is, it may be his extreme poverty or that he may not be earning enough to make both his ends meet, who may be starving his animal to a certain extent, in which case I say, Sir, nobody could be a better person to give his reason than the accused himself. I do not think that the prosecution side should be burdened with the onus of proving that it was a neglect without sufficient excuse.

The same thing would apply when the accused abandons or turns loose any animal without making due provision for its sustenance. We know in Bombay as a matter of fact that animals have been let loose or thrown on the streets after the best work has been taken from them by their owners and the identity of the owners is not disclosed. Therefore if the owner has been found out and if he is charged for culpable neglect on his part towards dumb creatures, I think it is but meet that the onus of proof must lie on his head.

Then, Sir, there is one more suggestion which I would like to see incorporated in the bill, and that is a suggestion of my honourable friend Mr. Purshotamdas Thakurdas who is not here to-day. He says that the trying magistrate should be a person not connected with the infirmary where the animal is treated and to which infirmary the amount recovered is payable. I may say that perhaps Mr. Purshotamdas holds this view because in Bombay the Veterinary College or Institute has its principal medical officer acting as the trying magistrate holding his court in his own institution and my honourable friend perhaps fears that the principal being directly connected with the infirmary may be unconsciously prejudiced against the accused, and in his anxiety to see that the funds may be recouped from the owners, may perhaps be influenced to inflict heavier punishment on the accused. I think this

[Dr. S. S. Batliwala]

suggestion that the magistrate should be a person not connected with the infirmary where the animal is treated, is a wholesome suggestion. With these words, I beg to support the second reading of the bill with the modification I have suggested.

Mr. DIPCHAND T. OJHA (Karachi City): Mr. President, I strongly support the argument put forward by my honourable friend Mr. Gandhi. The general principle of law is.....

The Honourable the PRESIDENT: May I take leave to point out that at present the motion is for the second reading of the bill as a whole? Mr. Gandhi confined himself to one particular section. I allowed him latitude because I wanted to see where he was going to end. Now, that speech I think would have been more appropriate, if and after the bill has passed the second reading, to the merits of that particular section. At present the question is, is the bill to be read a second time or not? That would economise a good deal of time.

Mr. DIPCHAND T. OJHA: I beg your pardon, Sir.

Dewan Bahadur K. R. GODBOLE (Poona District): Mr. President, I want to address the Council as regards the second reading of this bill. The point I made at the first reading was that the provisions of this bill are quite unsuited to rural areas and anyone that is acquainted with the condition of cattle in rural areas of this Presidency will bear me out—half the cattle, I should say 75 per cent. of the cattle, in rural areas are half-starved and are let out almost every day to graze on the commons without any adequate provision being made for their food and drink. I think, therefore, that the provisions of this bill are quite unsuited to rural areas and in my opinion the bill ought to be confined strictly to urban areas, *i.e.*, big cities or even small cities later on, Government reserving the power of extending the provisions of the bill to smaller cities, but to rural areas it should certainly never be extended. I think that the bill should go back to the select committee for revision in the light of the remarks I have made, namely, that the bill should be made applicable to urban areas only and that the rural areas should be excluded from its operation. I therefore move:—

**That the bill be referred back to the select committee for the purpose of considering further the question whether it is not inexpedient to apply its provisions to the rural areas.**

Rao Bahadur R. R. KALE (Satara District): Mr. President, I was one of the members of the select committee to which this bill was referred, and the point raised now was considered very fully in the discussion which we had. It will be seen that the original Act is the Government of India Act, and that Act says that the provisions of the Act shall be applied by notification to such areas as the Government might think fit, and certain of the talukas of this Presidency have already been brought under the operation of that Act. The present bill seeks to make an amendment in the Government of India Act, and it was feared that, by the passing of the bill, the amended Act would *ipso facto* apply to those areas to which it was already extended by notification, and, in order to prevent such a result, provision has been made in the bill by which the amended Act will not apply to any area, although the original Act does apply to it by a previous notification, the intention being that if it is intended to extend the amended Act to any area, it will have to be done by a separate notification. I was one of the persons who had opposed the bill when it was introduced at the first reading, and my opposition was based upon the fact

[Rao Bahadur R. R. Kale]

that rural areas should be excluded from its operation, especially as I found that in my own district, there were four talukas to which the Act had been extended. Therefore, I had put forward the case of the rural areas in the select committee. It was fully considered, and, in order to prevent any hardship, it has been provided in the present bill, as it has emerged from the select committee, that these provisions shall not apply *ipso facto* to rural areas, but that Government will have to issue a separate notification making the amended provisions applicable to such local areas, even though the general provisions of the Act are already in force in those local areas under the old notification. Therefore, no doubt, as the Act stands at present, there is the power given to Government to extend the amended provisions to rural areas, but unless and until Government decide to extend these amended provisions, there need be no fear that they will apply to those areas where there is already a notification extending the original Act. I therefore think that no good purpose will be served by re-committing the bill to the select committee, and therefore I oppose the motion which has been proposed, namely that the matter should be recommitted to the select committee. The point was fully considered, and I think we may safely leave it to Government that unless a strong case is made out for the application of the amended Act to the rural areas, Government will not issue a notification. Therefore, it seems to me that the motion for recommittal to select committee should not be accepted by the Council.

Mr. J. CRERAR : Sir, I move that the question be now put.

The Honourable the PRESIDENT : I accept the closure, and call upon Dewan Bahadur Godbole to reply.

Dewan Bahadur K. R. GODBOLE : Mr President, the point that I placed before the Council in moving my motion to recommit the bill to the select committee is important. I think that it should not be left to the discretion of Government to extend the provisions of this Act to rural areas, even by special notification. I know that it is provided in sub-clauses (*d*) and (*e*) of clause 2 that the provisions of the Act will not be extended to the areas to which I am referring, except after a notification issued by Government after due consideration. But I want to take away altogether from Government the power of considering the question of extending the provisions of this bill to the rural areas, and therefore I think the Council will do well to accept the motion that I have proposed.

Amendment negatived.

The Honourable the PRESIDENT : The discussion on the original question will now proceed.

Rao Saheb D. P. DESAI : I had given a series of amendments to this bill, but they were all disallowed as time-barred. If you will allow me, Sir.....

The Honourable the PRESIDENT : The amendments may be mentioned and if allowed moved, if and after the motion for second reading has been carried. The question now before the House is whether we ought to read it a second time. I see no one rises to speak, and so I will call upon the Honourable Member in charge to reply.

The Honourable Mr. M. H. W. HAYWARD : I have nothing further to add, Sir.

**Bill read a second time.** Question put and agreed to.

*Bill read clause by clause.*

Clause 2 (Amendment of section 3 of XI of 1890).

In section 3 of the Prevention of Cruelty to Animals Act, 1890, hereinafter called the said Act,

(*a*) the words "in any street or in any other place, whether open or closed, to which the public have access, or within sight of any person in any street or in any such other place" shall be repealed: and

(*b*) *After* clause (*c*) the following two clauses shall be added, namely :—

"or (*d*) in any area to which this clause is by special notification as aforesaid extended, without sufficient excuse neglects to supply any animal under his control with sufficient food or drink; or

(*e*) in any area to which this clause is by special notification as aforesaid extended, without sufficient excuse abandons or turns loose any animal without making due provision for its sustenance"

Rao Saheb D. P. DESAI: In clause (2)....

The Honourable the PRESIDENT: The amendments of which the honourable member had given notice were disallowed as beyond time. He came and represented the matter. I told him that I would consider the question.

Mr. C. M. GANDHI: Sir, I want to move an amendment, if the Honourable the Home Member accepts it.

The Honourable Mr. M. H. W. HAYWARD: I cannot accept an amendment which is put in at the last moment.

The Honourable the PRESIDENT: If honourable members look into the Standing Orders, they will find that although notice of amendments was time-barred the President has the discretionary power to allow it.

Mr. C. M. GANDHI: In clause 2, line 7, I want to add the word 'urban' before the word 'area'.

The Honourable the PRESIDENT: You want to confine it to the rural area. That will be against the principle of the bill. In an amendment of that kind I think the Honourable the Home Member was perfectly right in saying that he could not accept. I cannot exercise my discretion in favour of a question like that.

Rao Saheb D. P. DESAI: In line 9....

The Honourable the PRESIDENT: Mr. Surve's amendment is in line 8.

Mr. A. N. SURVE (Bombay City, North): Sir, I move my amendment to clause 2, line 8. The clause as amended by the select committee reads as follows; I am reading clause (*d*):

"in any area to which this clause is by special notification as aforesaid extended, without sufficient excuse neglects to supply any animal under his control with sufficient food or drink."

My amendment is:

"After the words 'as aforesaid extended' substitute the following for lines 8 and 9:— 'with intent to cause starvation of any animal under his control, voluntarily neglects to supply it with food or drink: or'"

According to the clause as amended by the select committee, the burden of proving innocence is thrown on the accused person. That is what the addition of the words "sufficient excuse" means. As a matter of fact, the guilt of the accused person must be proved by the prosecution, and it is not that the accused should prove his innocence. The clause practically means to lay down that the accused is guilty unless he proves his innocence. The second point is that this clause does not take into account the criminal intention of the

[Mr. A. N. Surve]

accused person. Neglect to supply food to animals can be divided into two classes. The first class comprises of those unconscionable people who try to get off their hands unserviceable cattle by some means or other. The other class consists of poor agriculturists who never wish that their cattle should go out of their hands but are handicapped by other circumstances beyond their control. The clause as amended by the select committee does not make any distinction between these two classes. My submission is that the intention of the accused person must be taken into consideration. Now, I will refer to the words which are added to this clause. They are "without sufficient excuse". As to these words I have seen the English statute, and I find that they do not refer to the definition of cruelty at all. The section from which these words appear to have been borrowed refers to the poisoning of cattle. Where an animal is poisoned, where a healthy animal is poisoned, of course it is the duty of the man who poisoned it to explain why he poisoned it. In such a case the practice of throwing the onus of proof on him can be justified. Here you borrow these particular words from that context and throw the burden of proving the innocence on the poor agriculturist. You say he shall prove his innocence and state why he has failed to give sufficient food to his animal, without taking into account the conditions prevailing in this Presidency. I will just read what I have read only very recently in a newspaper from Belgaum.

The Honourable Mr. M. H. W. HAYWARD : I rise to a point of order, Sir.

The Honourable the PRESIDENT : Do not throttle him unless he is out of order. What is it ?

Mr. A. N. SURVE : It is said there :

"The grass being discontinued to be supplied to the public from the Government store, the merchants of Belgaum have raised their rates of fodder all at once."

The Honourable the PRESIDENT : Order, order. The honourable member ought not to refer to and quote from statements in newspapers. The honourable member ought to make statements on his own responsibility and not rely on any newspaper statements.

Mr. A. N. SURVE : I shall not do it then, Sir.

The Honourable the PRESIDENT : It is second-hand information not tested by the honourable member's responsibility.

Mr. A. N. SURVE : I might state the effect of a single famine on the cattle population. I am reading from the Season and Crop Report for the year 1919-20 at page 8. It refers to agricultural stock. There the effect of a single famine on cattle is given.

"Being taken within six months of the close of the famine of 1918-19, the result indicates clearly the losses due to famine. The total number of cattle is now returned at 81·84 lakhs in he Presidency showing a net loss of".....

The Honourable the PRESIDENT : The honourable member is surely wasting the time of the Council by reading long extracts from these reports, and that on a matter with which we are all acquainted, *viz.*, that during a famine time there is very little of fodder left and ryots are in a very hopeless condition. I think the Council does not require quotations and extracts from voluminous reports for that.

Mr. A. N. SURVE : I will only give the effect of a single famine on the cattle population. Our Presidency is suffering from famine once in every

[Mr. A. N. Surve]

three years. So, in this particular Presidency where the Act is applied to urban areas in the mofussil, you should not enforce this particular clause. Though it may be preceded by a special notification, still it will act harshly against the owners of cattle.

Then I shall refer to the second group of words which has been added in this clause and it is "sufficient food". Now the English Act. . . . .

The Honourable the PRESIDENT: Order, order. Mr. Surve, these will be two separate amendments. Is it not so? Or do they stand upon the same level?

Mr. A. N. SURVE: I am referring to sub-clause (*d*) . . . .

The Honourable the PRESIDENT: It is not a question of sub-clause (*d*). It is a question of the meaning and effect of your amendment. If the same arguments apply to both, then it would be one amendment. If the merits of the two are different, then they would be two separate amendments, and I shall have to put them separately.

Mr. A. N. SURVE: My amendment is this:

"*Omit* the words 'without sufficient excuse neglects to supply any animal under his control with sufficient food or drink, or': and *insert* instead 'with intent to cause starvation of any animal under his control, voluntarily neglects to supply it with food or drink, or'"

Now the objections which I raise do relate to this amendment which is one only. I have one more remark to make and that is, the English Act though it has the experience of 100 years and more does not definitely make the omission of giving food an offence. The definition that is given there is a very short one. It is to this effect:

"If any person shall by wantonly or unreasonably doing or omitting to do any act, or causing or procuring the commission or omission of any act, cause any unnecessary suffering to any animal, such person shall be guilty" of cruelty to animals.

So this English definition, which has the experience of 100 years behind it, does not make the omission to give food an offence in definite words, but here though our situation is so very precarious, still, we rush into this very definite definition. Therefore, my submission is that the clause as amended by the select committee deserves the very serious consideration of this House and we should consider whether my amendment is not preferable.

Rao Saheb D. P. DESAI (Kaira District): Sir, I support the amendment. The words "sufficient excuse" I think will give sufficient excuse to the police to harass the poor, and that is what is objectionable. The police are always on the look-out for such an opportunity in the villages. And again, Sir, when we remember that the villagers or the people in the rural areas have not sufficient food to give to their own children and wives, how can they have sufficient food for their cattle? They are half starved during a scarcity year and in famine their condition is pitiable. Under these conditions it will be a regular hardship if the villagers are compelled to give sufficient food to their cattle. Generally the whole year round the cattle in the villages are fed on grass. Supposing a revenue officer or a veterinary officer takes into his head that grass is not sufficient food and that some grain should be given to the cattle he would just ask the police patel or the police officer to haul up the people who did not give grain to their animals before a magistrate. In that case, Sir, the police would unnecessarily harass the villagers and some of them would make money out of it; and when we look to the action of Government during famine times, namely that Government

[Rao Saheb D. P. Desai]

themselves allow about twelve pounds of grass as sufficient food for cattle, we will see the reason of the argument that the cultivator who feeds his animals on grass, should be placed outside the scope of this bill and should not be at the mercy of a revenue or police officer. So the amendment of my honourable friend Mr. Surve may be accepted by the Council. I have given notice of a similar amendment but as my honourable friend Mr. Surve's amendment is rather comprehensive and better worded than mine, I would rather not move mine but support Mr. Surve's amendment.

Rao Saheb HARILAL D. DESAI (Ahmedabad City): Sir, I support the amendment of my honourable friend Mr. Surve because it helps to make clear the object of this bill. The object of this bill is to penalize deliberate starvation of animals and that object ought to be made clear so that there may be no mishandling of the provisions of the bill, when it is passed into an Act. Mere neglect to supply food or water ought not to be an offence unless it is done with an intent and a deliberate intent for the purpose of starving an animal, and I think by accepting the amendment of my honourable friend Mr. Surve you would be making clear the object for which we undertook this amending legislation, and I therefore hope that the House would accept the amendment.

Rao Bahadur S. D. GARUD (West Khandesh District): Mr. President, now that the rural areas are not to be excluded from the operation of this Act, I beg to support this amendment to the penalizing provisions of this bill so as to make them the least troublesome to rural areas. This bill is mainly intended to affect the hard-hearted owners who live in cities who deliberately starve their animals because perhaps they do not give sufficient return. In the urban areas when a horse or a cow or a buffalo fails to give a sufficient return to the owner, the owner deliberately cuts down its ration, and the animal is allowed to die by starvation which is not the case in the mofussil. In the mofussil the ryots love their animals and they do all they possibly can to keep them alive even when they know they are not paying a sufficient return to the owner. The difficulty in fact in rural areas is to persuade a ryot to give up animals which cease to give a sufficient return. Under these circumstances, I think the sheer inability of the ryot to properly feed his animals should not be penalised. Therefore, Sir, the application of this measure to the same extent in rural areas as it is in urban areas would hardly be justified. I think, Sir, that the amendment which has been moved by my honourable friend Mr. Surve is a reasonable one, and where it is not a question of penalizing a hard-hearted owner, the law should extend as much latitude as it is possible to extend. I, therefore, Sir, support the amendment.

Mr. J. CRERAR: Mr. President, while I have some sympathy with the motives which actuated my honourable friend to move this amendment, I must oppose it on two grounds, firstly, in regard to the principle of the bill, and secondly, in regard to its practical application. I must venture to take a similar objection to what was said by my honourable friends Rao Bahadur Garud and the Deputy President in their exposition of the scope and purpose of the bill which have already been accepted in principle by this Council. My honourable friend the Deputy President said the bill was intended solely to penalize deliberate cruelty. I venture to point out to the House that it is a very incorrect statement. The bill is intended to provide for the better care of animals and to penalize not only deliberate cruelty but also neglect resulting

[Mr. J. Crerar]

in the same consequences. My honourable friend the mover made two statements. He said the effect of this section will be to throw the burden of proof upon the accused in violation of a well known principle of criminal law. To that proposition I venture to demur. The section of the bill makes it clear that the facts establishing ill-treatment have got to be proved as clearly under this law as under any other law. The difference is that the select committee in considering this section have made very special and careful provision that any reasonable excuse on the part of an owner of the animal will receive consideration. My honourable friend the mover said that in any criminal act there must be a criminal intent and he used that argument as it appears to me to infer that the actual consequences of a criminal act must be necessarily and in all cases be part of the intention, which is a proposition that is not quite correct. There are several crimes known to the law, the necessary element of which is criminal negligence, and one of the main objects of this Act is to penalize not only deliberate cruelty but also criminal neglect.

My honourable friend Rao Bahadur Garud said that it is absurd to penalize any neglect of an animal in a village, but surely, Sir, the Act provides for that. If the owner is able to show that his failure to provide his aminal with food is, *e.g.*, due to famine, that would be a complete answer and a sufficient excuse within the provisions of new clause (*d*) of section 3. Now, Sir, I venture to contend that the section as it stands is not framed in such a way as to be against the well-known provisions of the criminal law. On the contrary, it is entirely in pursuance of the principles of the bill and in consonance with the provisions of the criminal law. What, I think, the Council has to consider is that they have already accepted the principles of the bill and, therefore, they might give effect to such subsidiary provisions as are necessary to apply them. After all, the main point is this. We have to depend to a very large extent on the discretion of the magistrates in dealing with cases of this kind, and I think that honourable members who have supported this amendment show a rather unwarranted distrust of the competency of the magistrates to exercise their discretion in dealing with these cases. I oppose the amendment.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Sir, it appears to me that if this amendment is adopted, the section will be very difficult to work. The intention to starve an animal will be very difficult to prove. It may not be difficult to prove that an animal has been starved, but to prove that the owner intended to starve the animal is nothing but an attempt to examine the mind of the owner, and I think the effort will be futile, if the intention to starve is to be made an essential part of the offence. Again, if the word "sufficient" is taken away, the section will be futile, as even giving a single blade of grass may be said to be giving food to an animal and nobody could be convicted of starving an animal. If, therefore, the objections urged are cogent the best thing is not to adopt this section at all. But to make it utterly futile would not be advisable in my opinion.

Mr. B. G. PAHALAJANI (Western Sind): Mr. President, I have to support the amendment, especially after my honourable friend Mr. Crerar has spoken on this matter, because we have got a clear admission from the assistant to the Honourable the Home Member that, "if the owner has been able to show sufficient cause, he can get off." That is to say, the burden in a case of this kind, though the context does not show it, lies, according to the Secretary,

[Mr. B. G. Pahalajani]

Home Department, upon the owner to show that he had sufficient cause. I would submit that if these words "without sufficient excuse" had not been there, the ordinary interpretation of the criminal law would have thrown the burden of proving neglect upon the prosecution. But, when these words "without sufficient excuse" are put in, the liability to interpret the word "neglect" will be to throw the burden of proof on the accused, and that is the way in which the Honourable the Home Secretary actually now interpreted the clause. I would submit, Sir, that I am not going to rely upon the arguments advanced by my honourable friends from the rural areas, whose arguments are strong enough to accept this amendment, but I will only place the practical way in which this Act is worked in the mofussil areas. And even in cities it is not the police that usually bring these cases—they rarely bring them—to court. But there are especial agencies created for the purpose of preventing cruelty to animals and they employ certain kind of men. In the mofussil, these are offences cognisable by even third class magistrates. The punishment prescribed is less than one month and therefore any magistrate can take cognisance of them. Now, if any animal is seen straying and if the person who chooses to bring that animal into court, as they did often even when the other sections were not proposed, then the poor man who comes in the court is never willing to take trouble to give the defence and usually admits his guilt in order to prevent his having to come to the court many times and to prevent the worry of the prosecution. That is the way in which the Act is worked. Now, Sir, if in addition to this, the burden is thrown upon any person to prove that there was sufficient excuse, what is the meaning of that "sufficient excuse"? You give the acceptance of the degree of excuse to a magistrate of any class, be he a third class or a second class magistrate, and, after all, Sir, we leave that term "sufficient excuse," an indefinite term, in a legal enactment like this. What is sufficient excuse to that particular person, to the cultivator, or any other poor accused may not appear and will not appear. Under those circumstances, when by putting in these words "sufficient excuse" you throw the burden of proof on the accused, then, Sir, the whole object of the clause is altogether defeated, because the man, then, with these words against him will be far more helpless than if these words "without sufficient excuse" did not occur there. Therefore, I submit, Sir, that as in a case of this kind, as in any criminal action, as this Act, as the Home Secretary said, is more to prevent culpable neglect and to prevent deliberate starvation, I think the burden in the case of culpable neglect must lie on the prosecution and not upon the accused, which consequence the words "sufficient excuse" involve. I therefore submit that the words "with intention to starve" are necessary there, especially when this Act, Sir, is not confined to particular areas where people can afford to prove sufficient cause.

Mr. IBRAHIM S. HAJI (Bombay City): Mr. President, I rise to oppose this amendment moved by my friend from Bombay. Sir, in consideration of this amendment we must see what the bill is providing, for the purpose of preventing cruelty to animals. As was in plain words and clear language expressed by my honourable friend Mr. Crerar, this bill has originated from certain instances of crimes of cruelty to animals which have taken place in the city of Bombay, for instance, cruelty to horses which were found and were abandoned and were allowed to be starved. Such sorts of cruelties are not necessarily practised only in the city of Bombay, but they could easily be practised in the mofussil areas. In the city of Bombay, we might hear of

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horses, but in the mofussil areas we might hear of other animals. But, all the same, we must prevent cruelty. Now, this amendment is introduced in order that the rural people should have more latitude to practise cruelty on their animals, and the urban people should have less latitude. That is one view with which this proposition is to be considered. Another view with which this amendment is moved is that the bill as it is presented to us shifts the burden of proof from the prosecution to the defence.

I beg to submit that these two considerations will not help rural areas at all. Another point is that the burden or onus of proof is now sought to be shifted from the prosecution to the accused and this could only be averted by the amendment which says " with intent to cause starvation of any animal under his control ". The intention the prosecution will have to infer from the conduct and from the circumstances and the condition of the animals, and from this inference the prosecution can arrest and prosecute the accused, and it is now the accused who has to clear himself from this charge or this offence. All the same the prosecution must gather certain information before the person is accused of the offence of cruelty to animals. In gathering this information, the prosecution will not go to the court without a case against the accused, there must be some burden of proof ; and I think it is absolutely wrong to argue that the bill is revolutionising the fundamental principle of criminal practice and of the Criminal Procedure Code, in other words, is shifting the burden of proof from the prosecution down to the accused. The present amendment, as it is in the bill, by adding the words " without sufficient excuse neglects to supply any animal under his control with sufficient food or drink " does not seek to throw the burden of proof on the accused, but on the contrary it indicates that the prosecution will feel the necessity of thinking twice before arresting a person and charging him with neglect and asking the court that the accused should show cause why he should not be tried. That is the intention of this amendment as put in the bill. No prosecution under this bill could be started unless and until the prosecuting parties have proof that the accused has not sufficient excuse. Then, after ascertaining that, they must see that the accused purposely or with intent neglected the animal. The word " neglect " indicates the intention on the part of the accused though it is not explicitly mentioned—it suggests that there must be some action which indicates the intention on the part of the accused. The amendment proposed by my friend from Bombay was very nicely criticised by my honourable friend from Ahmedabad, Rao Bahadur Ramanbhai Nilkanth, that if the amendment is carried, the exactness of that legislation will not be understood by the trying magistrate. For example, he made it quite clear that giving of straw hay to an animal might be construed as not giving food. The bill, as it is presented by the select committee, mentions quite clearly the intention of the legislature, what sort of food and what amount of food should be given. Therefore, the insertion of the words " without sufficier t excuse and with sufficient food " at once indicates what it means. It also indicates that sufficient food means food—hay and straw or anything else, which is enough or practically enough to keep the animal alive. The legislature must make it quite clear what its intentions are, and I submit that the amendment as presented by the select committee is quite clear and without ambiguous words as to what the intentions of the legislature are.

I think I must deprecate the idea of discrediting the magistrates, whether they are first class or second class or third class. The magistrates are

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experienced men and as presidents of advisory committees they have to use great discretion and their discretion, as explained by my honourable friend Mr. Crerar, will always be on the side of the rural people rather than on the side of the police.

Rao Bahadur R. R. KALE (Satara District): Mr. President, I wish to remove a misapprehension which seems to me to be in the minds of the honourable mover and other honourable members of this House. The words "without sufficient excuse" were not originally there at all. The bill lays down that whoever neglects to feed an animal without sufficient excuse shall be punished and so on. So, it is in the interests of the neglector that the words in question were put in by the select committee. It was proposed at one time to add the word "wilfully" but it was thought that in order to give a wide scope to the clause that the words "without sufficient excuse" were better and therefore they were inserted in the bill.

Now, about the burden of proof, I think my legal friends know very well that in similar cases under the Abkari Act or the Forest Act it has been stated in express terms that the burden of proof will lie on the accused. Here it is not so stated. Therefore here I think it is not correct to say that the burden lies upon the accused. It is the complainant when he puts a case before the court who will have to prove that the accused has neglected without any sufficient excuse, that the man had no excuse, that he had enough fodder and yet he neglected to feed his animal and so on, so that in fact it will be difficult for the prosecution to secure a conviction unless and until the prosecutor proves to the hilt that the man was capable and possessed of means and had deliberately neglected to feed his animal. So under those circumstances I think the clause as it stands is really unnecessarily causing a misapprehension as regards the burden of proof being thrown on the accused and other fears, and on these grounds therefore I think the bill as it is should be passed and the amendment should not be accepted.

Khan Bahadur S. N. BHUTTO (Larkana District): Mr. President, I rise to assure my honourable friend Mr. Pahalajani that his fears regarding the people of rural areas being ignorant of law are groundless. The rural population is not now as ignorant as it was thought to be in days gone by. In my experience as a magistrate, I know rural people are getting well familiar with the law of the country, particularly when no small number of pleaders is available all over the country and cheap too. I therefore oppose the amendment.

Mr. DIPCHAND T. OJHA (Karachi City): Mr. President, I also support the amendment. We have heard a good deal on both sides of the question—some of the honourable members are of the opinion that the bill as presented should be passed and others are of opinion that sufficient safeguards should be provided in order that owners of cattle may not be unnecessarily harassed. It appears that the honourable mover and the supporters are also of opinion that some provision should be made to prevent deliberate cruelty to animals, whether in rural or in urban areas. The only question seems to me, how should the Act be worded? Do the honourable members mean to say that by putting in an amendment the working of the Act will tell less harshly on the people or that the bill as it is presented will be beneficial to the general public?

Now, if it is contended by the supporters of the bill, as presented, that the burden of proof shall be on the prosecution, I fail to see how the amendment

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means the contrary. On the contrary, the amendment provides sufficient safeguards, and if those safeguards are provided in the interests of the general public, who are going to be affected by the Act, I do not see why there should be so much opposition to the amendment that is placed before the Council. My honourable friend Mr. Haji is a Barrister-at-Law; so is my friend Khan Bahadur Bhutto. I am a legal man. We know from our experience how criminal cases are worked in the Presidency by the third class, second class, and first class magistrates. It is a mistake to think, as Khan Bahadur Bhutto does, that the people in the mofussil have now become conversant with law. If that be so, they would not stand in need of help from lawyers. My experience is that if they do know a little of the law, it is on the instruction of the police themselves.

The Honourable the PRESIDENT: I am afraid we are going beyond the necessities of this case. I do not want to interfere with any honourable member attacking the police, provided he keeps to the point. The question is whether the original clause puts the burden of proof upon the accused and whether the amendment puts the burden of proof upon the prosecution, and whether there is any radical difference between the language of the one and the other. If the lawyers in the Council will help the laymen in the elucidation of that point, instead of indulging in vague generalities about the burden of proof, I think we shall advance a good deal forward.

Mr. DIPCHAND T. OJHA: Could you not give your opinion, Mr. President?

The Honourable the PRESIDENT: No, I cannot, I can only rule what is relevant and what is not.

Mr. DIPCHAND T. OJHA: My suggestion was that if you gave your opinion, a good deal of the time of the Council would be saved.

The wording of the bill as it is is very vague, and we find that there is a good deal of difference of opinion with regard to the wordings, the wording of the amendment and that of the bill. I say, as I submitted before, that in order to be on the safe side the wording should be such as to leave no loophole to anybody to construe the law in a different way.

The Honourable the PRESIDENT: Everybody agrees there. The whole House is with you. But how to bell the cat? Has Mr. Surve belled the cat?

Mr. DIPCHAND T. OJHA: The solution, Sir, is that we should all unanimously accept the amendment, so that there may be no doubt about it. That is why I asked you how to bell the cat. The only course to take is, without any dissentient voice, to say 'ayes' to the amendment of Mr. Surve. But, so far as the shifting of the burden of proof is concerned, I will only say that according to the law of evidence the burden always lies on the prosecution to prove the guilt of the accused, because every law presumes an accused person to be innocent till he is proved guilty. My friend Mr. Haji said that the prosecution must bring a *primâ facie* case before the court. I would not go to that extent. I might simply ask the court to have the animal produced before the court, in order to have ocular proof whether it has been starved or not, and if I produced no further proof, the result will be that I am bound to be convicted at the sweet will of the magistrate. In this case, in order to protect the interests of the poor people in the mofussil, who cannot plead for themselves, and who cannot be expected to know all the provisions of the law, the

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more necessity is there for the legislature to see that the people are not worried, or harassed, or sentenced by officials, in charge of the cases. Even in civil cases, it is the experience of lawyers.....

The Honourable the PRESIDENT: We are not dealing with civil cases; we are dealing with the language of the amendment.

Mr. DIPCHAND T. OJHA: Supposing a plaintiff brings a civil action for liability in the case of negligence, it is still incumbent on the plaintiff to prove.....

The Honourable the PRESIDENT: Order, order. Negligence in civil cases is different from criminal negligence. Therefore, civil cases have no application here.

Mr. DIPCHAND T. OJHA: I want to point out that even in civil cases of negligence the burden of proof lies on the opposite side. He may not succeed if he does not prove want of resonable and probable cause and if he once makes out a *primâ facie* case then the burden shifts on to the defendant to prove that there was no negligence on his part. In the first instance, the plaintiff has to proceed with his case. Therefore, in criminal cases, when we drag a man to court, and sentence him to imprisonment in default of fine, we must be careful to see that it leaves the magistrate in no doubt as to how he is to exercise his discretion. I may tell him that the law ought to be interpreted in a particular way, but he may reply " I do not want your interpretation, because the wording of the law leaves it to me to interpret it. Why has not the legislature made the wording of the section quite clear ? I have got a loophole to interpret it in my own way, and my view is that a particular clause in the bill does not place the burden on the prosecution, but shifts it on to the accused to prove his innocence, and he must produce evidence to prove his poor condition. There is *primâ facie* evidence for me to convict him, and he is guilty to my satisfaction." The result will be that the poor man will have to suffer, though there may be so much evidence before the magistrate, and so these are the circumstances under which an innocent man may be proved guilty. But if the prosecution, in the first instance, is asked to prove a *primâ facie* case against the accused, the prosecution shall be obliged to go into all the circumstances of the case, and it will not be possible for the prosecution to drag any person into a court of law and get him sentenced. Therefore, the burden of proof will be on the accused. I therefore, submit that, in order to see that we are not abused by poor ryots, we should not he a party to such an enactment, which will work harshly on them. It is up to every councillor to see that he is not criticised for being a party to an enactment which will work against his own constituency. I am therefore strongly in support of this amendment.

Mr. C. M. GANDHI (Surat City): Mr. President, now that the provisions are to be applied not only to the urban areas but also to rural areas, it becomes all the more necessary to see how the bill will be worked in the mofussil. The section says " without sufficient excuse neglects to supply any animal, etc." Knowing as I do the magistrates, as soon as a famished or starved animal is produced before them, they will start with the presumption that the animal has been neglected. The question which will arise then is whether there is sufficient excuse for such neglect, and then it will be argued that the man has no excuse to neglect to supply food to his cattle, unless he proves to the contrary. his is what exactly happens even in city magistrates' courts. As this clause

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is going to be applied to rural areas, it is much better to make it absolutely clear. The section as it is worded throws the burden of proof on the defence. The Home Secretary and my honourable friend Mr. Haji pointed out that the burden of proof will be on the defence. If those honourable gentlemen, who are well versed in law, hold that opinion, the magistrates also will be forced to hold the same view. I beg to submit that the House will be well-advised in accepting the amendment.

Mr. A. N. SURVE (Bombay City, North): There are three cases in which guilty intention is not required to be proved. (The honourable member was at this point for sometime inaudible). Therefore, in this case the criminal intention of the accused person must be proved.

Second point is about neglect. I do not say that neglect should not be made criminal. I am certainly for making deliberate neglect criminal, but in our province the question is not about neglect. Owners of cattle might not get fodder. Owing to railway difficulty, the Government itself may not be in a position to supply grass to the famine affected areas. In such cases this Act would work very hard against the poor agriculturists. As the High Court has ruled that the present provision in the bill is inadequate we must make some sort of provision. Otherwise, if we neglect that duty, there will be unconscionable persons who will take advantage of the situation. What I suggest is that we should make our provision wide enough to include all those persons who are deliberately cruel to animals, and yet we must exclude the innocent agriculturists who have no intention of starving their cattle, but who cannot help doing so in the circumstances in which they find themselves and be lenient to them. My amendment fulfils these conditions.

The Honourable Mr. M. H. W. HAYWARD: Mr. President, the Council has accepted the proposition that we ought to add cruelty of the nature of neglect. There are provisions already for dealing with cases of deliberate cruelty. The House came to that conclusion, because it was pointed out that there was not sufficient provision in the Act to deal with neglect of animals. That was pointed out in a case which came before the High Court.

Rao Saheb HARILAL D. DESAI: Will the honourable member state the case.....

The Honourable Mr. M. H. W. HAYWARD: If the honourable member is not rising to a point of order, is he in order.....

Rao Saheb HARILAL D. DESAI: I want an explanation on the particular point.....

The Honourable Mr. M. H. W. HAYWARD: The honourable member is not entitled to ask for an explanation.

The Honourable the PRESIDENT: It is not a personal explanation: it is a matter of argument and that cannot be raised now.

The Honourable Mr. M. H. W. HAYWARD: I know from personal knowledge that it was a bad case, having been a member of that Bench of the High Court. The Council.....

(An honourable member at this point interrupted.)

The Honourable the PRESIDENT: I hope honourable members will not interrupt a speaker in the midst of an argument.

The Honourable Mr. M. H. W. HAYWARD: The Council, Sir, has accepted the position that neglect of that kind ought to be penalised. The honourable mover of this amendment has given his whole case away in his reply. He has

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admitted that the object of his amendment is to make futile this proposed alteration in the Act. He has admitted that his amendment will make it impracticable to punish neglect. And I put it to members whether the honourable mover is not perfectly right. I entirely agree with him that if his amendment is accepted it will make absolutely futile this amending bill. It will require the prosecution to prove that the person who has neglected to feed his animal did so with the intent all along, with the actual intent, to cause starvation of the animal—that will be the effect of the words of my honourable friend 'with intent to cause starvation'—to prove that he withheld the necessary water thinking all the while "I am going to cause starvation of the animal;" that he refused to put grass before it: why? because he was thinking "I am going to cause starvation: I am going to allow that animal to die of starvation." I submit that it is ridiculous. What is required is to punish negligence: It is to teach people to look after their animals better. It is not really to punish a man who sits down like an ordinary criminal saying "I will see that animal starve; I won't give him water; I won't give him food." That is not the sort of thing aimed at by this bill. That would be punished under the existing Act. I am sure the honourable members will agree with me that we ought to go beyond that and that we ought to punish ordinary negligence. We want to teach people to be kind to their animals. That is the principle which has been accepted, and I submit, Sir, that the amendment proposed will entirely do away with that principle. Therefore, I submit, Sir, that the draft as proposed after very careful deliberation by the select committee ought to be accepted by this House. The select committee recognises that there might be cases of hardship: they recognise that there might be famine conditions, that the man might be too poor, that there might be a hundred reasons why it was not a case in which he ought to be punished, and for that purpose the select committee have put in those words "without sufficient excuse" in order to make it possible for the man to lay all the facts before the court, to say "This unfortunate animal has been starved, but it was not really my fault; I really did my best and I did not mean to starve it." And if these facts are laid before the court,—the magistrates are reasonable—the magistrate will say: "I understand you are not to blame."

With regard to the point raised as regards the burden of proof, well, this does not come under the ordinary rule of evidence as to an exception. It comes under an entirely different rule: it comes under the ordinary rule of commonsense, that facts which are particularly within the knowledge of a man must be proved by that man. Now, this is a commonsense rule which has been laid down in the law of evidence, because it is the only practical way of getting at the truth. And this amendment which has been made by the select committee brings into force that commonsense rule, that if there are exceptional circumstances the man who knows about them should be the man who should prove them. If there are sufficient excuses, then let the man come forward and say so, and if he says so they will be accepted by the magistrate. I submit, Sir, that it is a very reasonable provision, a provision which appears in many other sections of law, and I submit that it is a provision which can safely be accepted by the members of this House.

There is only one other matter to note and that is that a greater part of the argument has been based upon the agriculturist. It is said the unfortunate agriculturist in the districts does not know law and has not the help of any pleader, it seems there must now be a dearth or scarcity of pleaders not only

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in the presidency but also in Sind; the unfortunate agriculturist is smitten by famine and is therefore unable to save his animals from starvation; he will be punished for lack of pleaders for the animals he will lose in the serious famines which scourge this Presidency! We do not have famines fortunately in Sind, so, it applies not so much to Sind. My reply to that is, in the first place these provisions won't apply to the agriculturist, because they have got to be specially notified to rural areas, and it is not the agriculturist that we want to get at at all. It is not the agriculturist who does these things. It is the man in the towns, in the cities, the man who is trying to make money out of his animals and who in order to make more money starves them; the man who makes money by employing animals to drive tongas, but won't spend one pie to buy sufficient grass or any other kind of food for them. That is the man we want to get at, and the provisions of this bill sufficiently provide that we shall get at him. We have no intention of extending it to the poor agriculturist; we do not want to get hold of him when he is smitten by famine, and thus unfortunately allows his animal to starve.

Thus there are two points to be urged against this amendment. The first is that if this amendment is passed it will make futile the provisions of the bill and the second is that the bill is not aimed at the agriculturist: it won't affect him if there is a famine, which would surely be a reasonable excuse. The magistrates are reasonable and if they are not reasonable they have the sessions courts over them and over the sessions courts the High Court. I submit, Sir, that this amendment ought to be rejected by the Council.

Question put that the words " without sufficient excuse neglects to supply any animal under his control with sufficient " do stand part of the clause.

Motion carried.

The Honourable the PRESIDENT: Now, we go on to clause 2, line 12. Mr. Surve will move his amendment.

Mr. C. M. GANDHI: Sir, may I be permitted to move an amendment?

The Honourable the PRESIDENT: Order, order. We cannot go back: we have to go forward.

Mr. C. M. GANDHI: We dealt with Mr. Surve's amendment.....

The Honourable the PRESIDENT: I am sorry. It is no use going back. The Standing Order says that you must move forward and you cannot go back. If we do not stick to that rule, we shall be always revolving in a circle.

Rao Saheb D. P. DESAI: May I move, Sir,.....

The Honourable the PRESIDENT: I am afraid you cannot. You have already said in your speech that you accepted Mr. Surve's amendment and you would abide by the decision on it.

Rao Saheb D. P. DESAI: I am moving another amendment, Sir.

The Honourable the PRESIDENT: We ought to have had notice of it.

Rao Saheb D. P. DESAI: I gave notice, Sir.

The Honourable the PRESIDENT: You gave notice which is time-barred under the Standing Orders.

Rao Saheb D. P. DESAI: It is under your discretionary power.....

The Honourable the PRESIDENT: I would not allow that. I would

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have considered that point but you have foreclosed your speech by supporting Mr. Surve's amendment and you have merged your amendment in that of Mr. Surve.

Mr. A. N. SURVE (Bombay City, North): Sir, my second amendment runs as follows:—

> "In clause 2 line 12 after the word 'sustenance' add the following words:—
> 'excepting the dedication of an animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class.'"

Sir, the amendment refers to sub-clause (*e*) of clause 2. It is an addition at the end of the word 'sustenance' and the reason for this amendment is that in this country of many religions and faiths under certain religious customs animals are dedicated to certain deities. Personally I know cases of fowls and goats being dedicated to certain deities and I am told that even bulls are dedicated. So in order not to interfere with the religious susceptibilities of any person, it is better to be on the safe side and make an exception about such cases in which the animals are dedicated under the peculiar religious customs. The condition of performance of rites would be a safeguard that no man will take undue advantage of the privilege conferred by my amendment.

The Honourable Mr. M. H. W. HAYWARD: Mr. President, I think, I can cut this matter short if I refer the honourable member to section 11. That section provides for the exemptions to which he refers and I should be quite prepared to put in a couple of words in section 11 to provide for this necessary exemption.

Mr. A. N. SURVE: I think section 11 relates to the killing of an animal.

The Honourable Mr. M. H. W. HAYWARD: Therefore I propose to put in the words, "abandon or turn loose". I hope that will meet the wishes of the honourable member.

Mr. A. N. SURVE: If the Honourable the Home Member undertakes to make that exception I am quite prepared to withdraw my amendment.

The Honourable the PRESIDENT: I want to know whether section 11 is a part of this bill.

The Honourable Mr. M. H. W. HAYWARD: It is the proper place to put in this amendment. It is the right place to put it in in the general exemption of section 11. It may be taken as a consequential amendment, Sir. I submit that as such it will be perfectly proper to put it before the Council. I suggest, instead of the amendment as proposed, inserting before the words "offence to" the words "abandon or turn loose or" to bring it in the right place, namely, section 11.

The Honourable the PRESIDENT: I am afraid the Honourable the Home Member does not see my point so far as the point of order is concerned. On second reading when we are considering a bill clause by clause the rule is that we must deal with the bill within its four corners. Now the four corners here do not include section 11 of the Act. Therefore, if an amendment of this kind is to be accepted it must come in here only and not in any section of the Act outside the bill.

The Honourable Mr. M. H. W. HAYWARD: I submit, Sir, that section 11 is an exception which applies to the whole of the Act, that you cannot read any one section of the Act without reading section 11 into it, and therefore as we are amending this clause 3, we must read section 11 into it. It is within your power, Sir, to rule.....

The Honourable the PRESIDENT : I am merely dealing with the point according to the Standing Orders and practice. The Standing Orders expressly say I must deal with the bill clause by clause as it is, *i.e.*, that is my difficulty.

The Honourable Mr. M. H. W. HAYWARD : I will then put it in another way and undertake, Sir, to bring in a special bill to put in these words in section 11.

The Honourable the PRESIDENT : What is the objection to accepting this as an addition to the section of the bill by way of amendment ?

The Honourable Mr. M. H. W. HAYWARD : Because it is not the right place to put it in and if the honourable member consents and if you think fit, I am prepared myself to give notice of the amendment in section 11.

The Honourable the PRESIDENT : If I make a precedent of this, I shall be going beyond the established rules, and the rule is—and it is a rule invariably observed in the House of Commons, on the third reading of a bill which is equivalent to our second reading—you are confined to the four corners of the bill as it is and you cannot go outside it. I must deal with the bill clause by clause and not the Act.

Mr. A. N. SURVE : As the Honourable the Home Member has consented to bring in a special bill embodying the amendment of which I have given notice.....

The Honourable the PRESIDENT : The Honourable member, Mr. Surve, consents to withdraw the amendment on the distinct understanding that Government will introduce a special bill for this purpose.

Amendment withdrawn by leave.

Clause 2 ordered to stand part of the bill.

*Clause* 3 (*Amendment of section* 6 *of* XI *of* 1890).

For section 6 of the said Act the following section shall be substituted, namely :—

"6. (1) If any person employs in any work or labour any animal which by reason of any disease, infirmity, wound, sore or other cause is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees.

Penalty for employing animal unfit for labour.

(2) The Local Government may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against sub-section (1) have been committed.

(3) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and care to an infirmary and be there detained until, except as provided for in sub-section (4), it is in his opinion, or in the opinion of some other Magistrate, again fit for the work or labour on which it has been ordinarily employed. If however the Magistrate decides that the animal will never again be fit he may direct that it shall be destroyed or sent to a pinjrapole.

(4) Within any specified area the Local Government may, when any animal has been sent to an infirmary under sub-section (3), authorize any veterinary officer to issue a certificate that in his opinion such animal is fit for the work or labour on which it has been ordinarily employed and such animal shall not be released from detention unless and until such certificate shall have been issued or the Magistrate directs that it shall be destroyed or sent to a pinjrapole.

(5) The cost of the transport to the infirmary and the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency town, the Commissioner of Police may from time to time prescribe.

(6) If the owner refuses or neglects to pay such cost and to remove the animal within such time as a Magistrate may prescribe, the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(7) The surplus, if any, of the proceeds of the sale shall, on application made by the owner within two months after the date of the sale, be paid to him.

(8) If the cost incurred under sub-section (5) shall exceed the proceeds of the sale, the excess to such extent as shall seem reasonable shall be recoverable from the owner as a fine on the order of a Magistrate, provided that no such order shall be made without the owner being given a reasonable opportunity of urging his objections, if any, before the Magistrate."

Mr. A. N. SURVE (Bombay City, North): The next amendment that stands in my name is an addition to sub-clause (3) of clause 3 after the last word "pinjrapole". The amendment reads as follows:—

"In clause 3, line 16, after the word 'pinjrapole' add the words 'provided that unless the owner of the animal assents no direction under the latter part of the sub-section shall be given except upon the evidence of a veterinary officer'."

My object in proposing this amendment is that a magistrate cannot have the technical knowledge to decide whether an animal will ever recover or not. If the owner assents, there will be no objection to the magistrate passing the order, but if he says that his animal should not be destroyed or sent to the pinjrapole, unless some man having the knowledge of the diseases of animals comes forward and says that the animal is incurable, then a veterinary officer must certify that the animal is incurable; otherwise there would be no reasonable guarantee to hold that an animal having a chance of recovery might not be destroyed. To safeguard that contingency, I have added this clause. With these remarks I will leave my amendment in the hands of the Council.

The Honourable Mr. M. H. W. HAYWARD: Mr. President, I regret I cannot accept this amendment, because.....

The Honourable the PRESIDENT: As no one else has spoken on the amendment, if you speak now, it will be your final reply. The mover of the amendment may ask for a reply.

Mr. A. N. SURVE: I have no reply to make, Sir.

The Honourable the PRESIDENT: You have no reply to make, as there is no one to reply to.

The Honourable Mr. M. H. W. HAYWARD: I cannot accept the amendment, Mr. President, because in the first place it is rather vague, and.....

The Honourable the PRESIDENT: Is it necessary for the Honourable the Home Member to reply? From the way the House has treated the amendment, I think it requires no powder and shot.

The Honourable Mr. M. H. W. HAYWARD: Well, Sir, I merely say that I cannot accept the amendment.

Amendment negatived.

Mr. A. N. SURVE (Bombay City, North): Sir, the next amendment which I have to move is to sub-clause (5) of the same clause (clause 3), by adding a few words after the word "cost" in line 23. The amendment will read as follows:—

"In clause 3, sub-clause (5), after the word 'cost' add the words 'not exceeding the price that the animal would fetch if it is sold'."

In this bill the owner of an animal is made liable to pay for the cost of treatment and of transport to the infirmary and certain other matters, and the owner is liable even if the cost of treatment exceeds the value of the animal. The original Act makes a specific provision in clause (7) to section 6 that the owner shall in no case be liable to make any payment in excess of the price realised by the sale of the animal. So in this case the amending bill is trying to go beyond the limit which is placed by the principal Act. The principal

[Mr. A. N. Surve]

Act definitely states that the owner in no case shall be liable for the payment of extra money that will have to be paid after the animal is sold.

(At this stage the Honourable the President withdrew and the Deputy President occupied the chair.)

Supposing the animal is sold for Rs. 100 and the cost of treatment comes to Rs. 125, in that case, according to the amending bill, the owner will have to pay Rs. 25 more and under the original Act he will be liable to pay nothing; he will only lose his animal. Therefore I submit the amending bill should not exceed the principle which is laid down by the original Act. For that reason I have brought this amendment before this House.

(At this stage the Honourable the President resumed the chair.)

Dewan Bahadur K. R. GODBOLE (Poona District): Sir, I wish to support the amendment that has been brought forward by my honourable friend Mr. Surve. The position that he has taken up is that the owner of an animal should not be made to pay more than the cost of the animal itself. The clause as it stands at present will make him liable to pay for cost in excess of the price that the animal will fetch. That will be a distinct hardship upon the owner of the animal and I think therefore that the Council will do well to accept the amendment that has been proposed.

Mr. B. G. PAHALAJANI (Western Sind): Mr. President, I support the amendment in view of the existence of another clause—sub-clause (8) of clause 3 of the same bill—because if this is allowed to remain, sub-clause (8) will be somewhat inconsistent. This sub-clause (5) creates only a liability:—

> The cost of the transport to the infirmary and the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate or, in the case of an infirmary in a Presidency town, the Commissioner of Police, may from time to time prescribe.

Therefore sub-clause (5), line 60, creates the liability to pay by the words "shall be payable" and once there is a liability to pay, the whole cost is to be determined and, according to the last sub-clause (8), it is recoverable not only from the sale-proceeds of the animal but from all other property of the person owning that animal like a fine. I therefore ask the House to consider sub-clause (5) and the amendment that is proposed by my honourable friend Mr. Surve. In this case I find notice of amendment has been given by many members of the House with respect to sub-clause (8). Sub-clause (5) creates a liability to pay the cost which may and will exceed the price of the animal. The Honourable the Home Member states that this is intended more or less to penalise the action of many owners in large cities who neglect or deliberately throw their animals out on the streets, but, as the clause stands, I submit that in areas outside cities where any poor man may neglect to maintain his animal, and that animal is sent to the pinjrapole for treatment, and if that animal is sold or if it is kept a long time, the owner of that animal will have to pay at the usual rates fixed by a District Magistrate or a Commissioner of Police. It is very likely that in these days of high prices the cost of treatment will not exceed the cost of the animal itself. When the cost of the treatment of the animal has to be recovered from the owner, the animal will be sold by public auction and should the sale-proceeds fall short of the amount due from the owner, his other property which shall usually include other animals will be liable to distress under the provisions of the Criminal Procedure Code. In such cases the owners of the cattle not only lose the animal sent to the pinjrapole

[Mr. B. G. Pahalajani]

but their other cattle and are liable to lose their other property as well. I, therefore, submit that even if in large cities sub-clause (5) may be used well, outside the large cities it will engender considerable hardship and the House may well consider, in considering the case of pinjrapoles which need money for treatment of animals, the case also of the owners of cattle and allow the amendment to be passed.

Rao Bahadur R. R. KALE (Satara District): Mr. President, perhaps the honourable mover of the amendment assumes that the cost, even though it exceeds the price of the animals, will be recoverable in all cases from the owner. It was to make the provisions of the bill quite clear that sub-clause (8) was added, and therefore the operation of sub-clause (5) has been limited by sub-clause (8), and therefore I submit that this sub-clause (8) acts as a necessary safeguard, and, therefore, it is not that in every case where the cost exceeds the sale-proceeds that the excess shall be recoverable. Sub-clause (8) goes on to say,

"If the cost incurred under sub-section 5 shall exceed the proceeds of the sale, the excess to such extent as shall seem reasonable shall be recoverable from the owner, as a fine on the order of a magistrate, provided also that no such order shall be made without the owner being given a reasonable opportunity of urging his objections, if any, before the magistrate."

So you will find, Sir, that there are two safeguards already laid down. The honourable mover of the amendment wants to do away with these excesses in all cases. Sub-clause (8) says that if there is an excess, then the limit is to be put by the magistrate and only such excess as shall seem reasonable under the circumstances shall be recoverable, and also an opportunity is given to the person affected to put forward his side of the case which may perhaps enable him to induce the magistrate to come to a conclusion that no excess should be paid. Therefore I submit that there are sufficient safeguards already provided in sub-clause (8) which renders the present amendment unnecessary, and, therefore, I think, sub-clause (5), as it stands, is not an absolute clause but, as I have said, that it is limited in its operation by sub-clause (6), and that limitation is a safeguard to drive away the fears which are entertained about the owners of cattle being held liable to pay excess. The magistrate has to consider whether a man has acted in any way to make himself liable to pay excess. Therefore I say that the amendment is unnecessary and should be rejected.

Mr. A. N. SURVE (Bombay City, North): Mr. President, my honourable friend Rao Bahadur Kale assumes that it is not possible that the bill for treating an animal will ever exceed the value of that animal, but the framers of the original Act had that view before them when they enacted clause (7) to section 6. It distinctly lays down that if the cost of treatment should exceed, then the owner of the animal was not liable for that excess. He points out that there is a safeguard in sub-clause 8, but after all it is in the discretion of the magistrate. Why not leave the poor agriculturists quite free ? That is the question. The first thing is, he has been fined ; the second thing is, he has been made to pay the cost of treatment and even perhaps after the treatment, he may find that the animal is not serviceable to him for the work which he wants to exact from that animal. In that case, he will have to buy a new animal, and, at the same time, feed the animal which is unserviceable to him. The difficult position of the agriculturist in these circumstances may well be conceived. Again, supposing the man is made to pay the excess, how is that to be recovered ? It will be recovered as a fine. That would mean that, if the man is not able to pay it, his movables will be liable to be sold. On behalf of the agriculturists, I say

[Mr. A. N. Surve]

that it would be very hard on them. Therefore, I hope that the amendment which I have proposed will be accepted by the House.

The Honourable Mr. M. H. W. HAYWARD: Mr. President, the Council has already accepted the principle that the owner who ill-treats his animal and consequently causes the expense of treating it in hospital should, in certain instances, be liable for the whole cost of the treatment incurred by the hospital. If the honourable member had desired to go back upon this question of principle, it seems to me that it would have been more appropriate to have argued it at the time of the second reading. The honourable member ought to have moved an amendment to restore the words which have been deliberately omitted from sub-section (7). The bill omitted these words from sub-section (7):

"The owner shall not be liable to make any payment in excess of the proceeds of the sale."

The honourable member ought to have brought a definite amendment to put those words back in sub-section (7). It is not the right place to put them in sub-section (5). Apart from that technical objection, it seems to me the principle has been accepted that the owner who has been guilty of ill-treating his animal ought reasonably to be called upon to pay the expense of treating that animal in the hospital. The select committee carefully considered the question, realised that there might be occasions when the owner of the animal might not be able to pay the whole cost, and provided in the following sub-section (8) that the man should be given an opportunity of putting forward his special case in which the cost ought not to fall upon him, but on the hospital. If the man should go to the authorities and say in vain "Here is a sick animal, which I cannot afford to feed and which I do not want to make use of; let it be removed to the *pinjrapole*", that would be a perfectly good case for saying that the man ought not to pay anything in excess of what the animal would fetch, and the balance should fall on the hospital. Therefore, the select committee put those words in sub-section (8), to enable all the circumstances of each particular case to be carefully considered. The magistrate would carefully consider all the circumstances, and only where there was a clear case in which the liability ought to be placed on the owner would there be a decision against him by the magistrate.

I have only this to add, that it is not really the rural agriculturist that we are trying to get at; it is such persons as cattle and tonga owners, who want to make money out of their animals, and yet not spend a pie to treat them in hospital after they have suffered from overwork or ill-treatment. I submit that this amendment ought not to be accepted by the House.

Amendment negatived.

Mr. A. N. SURVE (Bombay City, North): Mr. President, my next amendment relates to the same clause, and it is:

"In line 23, clause 3, omit the words 'transport to the infirmary and the.'"

The reason of my amendment is that the animal, being a material piece of evidence, is brought by the prosecution to the court, and the cost of bringing the animal from the place of the owner to the court is always borne by the the prosecution. What the clause in the bill seeks to do is to throw the cost of transport from the court house to the infirmary on the accused person. Now, we are told that the Prevention of Cruelty to Animals Act is applicable only in urban areas and in cantonments, where there are infirmaries. So, the

[Mr. A. N. Surve]

cost of transporting the animal from the court house to the infirmary will be small.

The Honourable Mr. M. H. W. HAYWARD : It is not the transport of the animal to the court house, but the transport to the infirmary. If the animal is so ill that it cannot walk, it is necessary to have a cart to carry it to the infirmary.

Mr. A. N. SURVE : The second thing is that there are no motor ambulances for animals to be found in the mofussil. The animal will have to be carried, perhaps in a cart, or on foot, or some men will have to carry it. So, the relief to the animal is not obtained, and, at the same time, the owner of the animal is saddled with the cost. So, I beg to propose that the accused person be free from this liability of the cost of transport of the animal from the court house to the infirmary.

Rao Saheb D. P. DESAI (Kaira District) : Mr. President, I think the bill was referred to the select committee to soothe it down and not to make it stricter by the addition of the words " cost of transport to the infirmary, etc. " But that appears to have been done, and it is attempted to put the cost of transport to the infirmary on the owner. I should think that the revenue already given by the passage of the previous clauses of the bill should be enough to the Honourable the Home Member, and we should now try not to place any further burden on the agriculturists or the owners of animals. On the contrary, why should not the doctor go to the animal at its place and treat it there ? It would not cost Government anything, it might only cause the absence of the doctor in the veterinary hospital for some time ; it would cost him little if anything to journey say six miles to where the sick animal was being kept. So, I should rather wish that these words might be dropped.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars) : Mr. President, I strongly support the amendment which is now put forward. I appeal to the Honourable the Home Member to accept the amendment in the light of the conditions that now exist in the districts. The Honourable the Home Member, perhaps, might be aware that in the rural areas, there are no infirmaries or even veterinary hospitals to which animals could be sent very easily. If this Act is extended in rural areas, and if an animal is to be sent either to Bombay or to Poona, the cost of transport will be so heavy that perhaps the poor agriculturist will be deprived of two other cattle or even his house. I think that, when the bill was before the House for the first time this was dropped, and the select committee has not made out a sufficiently strong case for inserting this new clause. I hope the Honourable the Home Member will accept the amendment.

Mr. S. K. BOLE (Bombay City, North) : Mr. President, I rise to support the amendment. In Bombay ambulance cars are used when animals are taken to the infirmary. The Honourable the Home Member said that it was for the purpose of taking lame animals to the infirmary. It has not been expressly stated so here in the bill. This provision might be abused and every animal might be taken in ambulance cars. The agents of the Society for the Prevention of Cruelty to Animals will engage an ambulance car and have a joyful ride with the animals, but it is the poor owner that will have to bear the charges. Under these circumstances, I think it would be better if these words are omitted.

Mr. F. C. GRIFFITHS : Addressed the House, but was not audible.

Dr. S. S. BATLIWALA (Bombay City, North): Mr. President, I do not agree with my friend, Mr. Bole, who, I believe, has some practical experience of the working of the Society for the Prevention of Cruelty to Animals. I am quite sure he will not be in a position to point out a single instance, where the police have engaged motor ambulance for the transport of animals, and enjoyed a drive in it, except in extreme cases where the animals could not walk or were incapacitated. What we have to consider is whether the owner ought to be made to pay for the transport or not. Sir, on the face of it, it is evident that the Act is more to be applied in the city than in rural areas, and if that be so I do not see why the owner should be permitted to go scot-free, when he has been convicted for the neglect of his animal. It is but fair that he should pay the charges for the transport of the animal. Mr. Bole said that the police will have a pleasant ride in the ambulance car, and with a view to have a ride they will engage an ambulance car and make the owner pay for it. I beg to differ from him as I have not come across any such instance in my capacity as Honorary Presidency Magistrate, and I am sure Mr. Bole has more to quote.

Mr. G. B. TRIVEDI (Thana District): Sir, the difficulty arises from the fact that this Act which is primarily for the city of Bombay is not restricted to urban areas only. From the amendments and opposition it is quite clear that there is on one side the fear of the honourable members coming from rural areas, and on the other the explanation of the honourable members coming from city which relates to the conditions prevailing there. It is therefore natural that honourable members coming from rural areas fear that they will not be able to bear the burden that is intended for people living in cities. Therefore, it is incumbent on the Government and the Honourable the Home Member to take into consideration the fact that the bill as it is passed by the select committee is not satisfactory and that there is a cross purpose running through the bill as it is amended. It is still for the Honourable the Home Member to see whether he could not at this stage consider how to meet the objections of the honourable members coming from rural areas. As it has been put by the honourable members from rural areas this amendment is quite necessary in rural areas. It may not be necessary in the conditions prevailing in cities. It is quite apparent that if an animal is in a village 25 miles away from the dispensary, the cost of transport will be very heavy. The Act is not restricted to urban areas, and according to it the owner will have to bear the charges. Why not accept the amendment or try to mend it in some way to satisfy the conditions prevailing in cities, and to satisfy the members coming from rural areas?

Mr. B. V. JADHAV: Sir, I beg to support this amendment. A just apprehension has been caused in the minds of honourable members from rural areas. This legislation may be quite good for conditions prevailing in Bombay. The Act has been introduced into some taluka areas, and we all know what it means for the ryots to be at the mercy of the police peons and subordinate magistrates. This legislation may be very good for the Society for the Prevention of Cruelty to Animals, but it is very bad for the ryots. I, therefore, pray that this amendment be adopted and the provision that is now threatening the ryots be removed.

The Honourable Mr. M. H. W. HAYWARD: Mr. President, I regret I cannot support this amendment. The honourable mover seems to be under a misapprehension. He apparently would leave the sick animal to remain sick where it falls: he would not remove it to the infirmary at all. But it seems to

[Mr. M. H. W. Hayward]

me that if the animal is being ill-treated, so ill-treated that it cannot walk to the dispensary, surely it is only right that means should be taken to transport it there. It is not very often that it will be necessary to move it by special transport, but where it is necessary owing to the ill-treatment the owner has caused it, it seems to me only fair that the owner should be called upon to pay the expenses of the transport. That will happen not very often, but occasionally, in Bombay: it will probably happen scarcely if at all in any other town or mofussil, but if it does happen it means merely transporting it to the local dispensary; it does not mean transporting it right down to Bombay. The incident happens only rarely in mofussil or rural areas. The animal will be transported to the local dispensary and the cost of transport will be small. Therefore, I think that the members from the mofussil need have no fear that they will be running into the large cost of transporting animals from the mofussil to Bombay. I submit, Sir, that this amendment ought to be rejected by this House.

Question put. Council divided: Ayes 21; Noes 31. Amendment negatived.

DIVISION No. 1.

**Ayes.**

ADHAV, Mr. P. N.
BHATE, Mr. G. C.
BOLE, Mr. S. K.
COOPER, Khan Bahadur D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA.
GANDHI, Mr. C. M.
GHOLAP, Mr. D. D.
GULAMHUSEN, Mr. SULTANALI SALEMANJI.
JADHAV, Mr. B. V.
MANSURI, Khan Saheb A. M.
MUTALIK, Sardar, V. N.
NIMBALKAR, Mr. K. B.
PAHALAJANI, Mr. B. G.
PATEL, Mr. B. P.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SURVE, Mr. A. N.
TRIVEDI, Mr. G. B.
VICHARE, Rao Bahadur D. A.

Tellers for the Ayes: Sardar V. N. MUTALIK and Rao Saheb D. P. DESAI.

**Noes.**

BATLIWALA, Dr. S. S.
CREERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DWARKADAS, Mr. KANJI
GHULAM HUSSAIN, The Honourable Khan Bahadur SHAIKH
GRIFFITH, Mr. F. C.
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HAYWARD, The Honourable Mr. M. H. W.
HOOD, Mr. A. J. F.
JENNINGS, Major-General W. E.
KANGA, Mr. J. B.
KER, Mr. J. C.
LAWRENCE, The Honourable Mr. H. S.
LOBY, Mr. F. B. P.
MEAD, Mr. P. J.
MEHTA, The Honourable Mr. C. V.
MODI, Sardar Davar T. K.
MONIE, Mr. P. W.
MOUNTFORD, Mr. L. J.
NELSON, Mr. F.
NILKANTH, Rao Bahadur R. M.
PAINTER, Mr. H. L.
PARANJPYE, The Honourable Dr. R. P.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Honourable Sir IBRAHIM
SETALVAD, The Honourable Sir CHIMANLAL H.
SHIRRAS, Mr. G. FINDLAY.
THOMAS, Mr. G. A.

Tellers for the Noes: Dr. S. S. BATLIWALA and Mr. F. C. GRIFFITH.

The Honourable the PRESIDENT: I now rule the last two amendments of which notice has been given by Mr. Surve to be out of order, *viz.*:

*New clauses 4 and 5.—Add* the following two clauses at the end:

"4. Any person convinced on a trial held by a Magistrate other than the District Magistrate, may appeal to the District Magistrate.

"5. Any person convicted on a trial held by a District Magisrate or a Presidency Magistrate may appeal to the High Court."

[The President]

I rule them to be out of order on the ground, which I hope will be borne in mind by honourable members for future guidance, that new clauses cannot be added to a bill on the second reading because on the second reading we must confine ourselves within the four corners of the bill, and that is in accordance with our Standing Orders which are distinct:

"When a motion has been agreed to by the Council that a Bill be read a second time, the President shall submit the Bill to the Council clause by clause....."

My duty is only to submit to the Council the clauses in the bill. There may be an exception to that rule, for instance new clauses may be inserted as consequential clauses. We had to deal with that question in connection with the Bombay Municipal Bill, but special circumstances apart, the general rule must be rigidly adhered to on the second reading. The amendments now concerned raise a new question altogether about penalties, and are an amendment of the criminal law. That would require very careful consideration on the ground of principle. The honourable member ought to have brought forward this point of the amendments at the first reading. I have, therefore, no hesitation in ruling these amendments out of order.

The Council is adjourned to 2 p.m. on Friday, the 22nd September 1922.

*Friday, the 22nd September 1922.*

The Council re-assembled at the Council Hall, Poona, on Friday, the 22nd September 1922, at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA
DWARKADAS, Mr. KANJI
FERNANDES, Major C.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, the Hon'ble Khan Bahadur SHAIKH.
GODAD, Khan Saheb ABDULLA AVJAL.
GODBOLE, Dewan Bahadur K. R.
GRIFFITH, Mr. F. C.
GULAMHUSEN, Mr. SULTANALI SALEMANJI.
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
HOOD, Mr. A. J. F.
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA
ISRAN, Khan Saheb G. A.

JADHAV, Mr. B. V.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
KANGA, Mr. J. B.
KER, Mr. J. C.
LAHORI, Khan Bahadur HAJI AMIRALI.
LALBHAI AMBARAM, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LORY, Mr. F. B. P.
MANSURI, Khan Saheb A. M.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MODI, Sardar Davar T. K.
MOHOMED SALAHUDDIN K., Mr.
MONIE, Mr. P. W.
MOUNTFORD, Mr. L. J.
MUKHI, Mr. J. P.
MUTALIK, Sardar V. N.
NELSON, Mr. F.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PAINTER, Mr. H. L.
PARANJPYE, The Hon'ble Dr. R. P.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM.
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SETALVAD, The Hon'ble Sir CHIMANLAL H.
SHIRRAS, Mr. G. FINDLAY.
SINDORE, Mr. H. N.
SUFI, Mr. KALANDARBAKSH.
SURVE, Mr. A. N.

THAKOR of AMOD, Sardar NAHARSINGHJI

THAKURDAS, Mr. PURSHOTAMDAS

THOMAS, Mr. G. A.

TRIVEDI, Mr. G. B.

VICHARE, Rao Bahadur D. A.

The Honourable the PRESIDENT: Order, order. Are there any new members desirous of taking their seats?

The following member then made the prescribed affirmation of allegiance to His Majesty the King-Emperor and took his seat in the Council:—

Khan Bahadur Haji Amirali Lahori.

## PREVENTION OF CRUELTY TO ANIMALS BILL.

(Consideration of clause 3 resumed).

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move—

"Omit sub-clause (8) of clause 3 of the bill."

This sub-clause, Sir, refers to the excess charge which is to be recovered from the owner of the animal. In the select committee this sub-clause has undergone an amendment. The change effected by that committee is that the excess to such extent only as seems reasonable may be recovered. Sir, this shows that there are likely to be cases in which the cost of treatment is likely to exceed the value of the animal, and to be not harsh upon the owner, I beg to move that the excess should not be recovered from him at all.

The sub-clause as amended by the select committee says that the owner may, if he has any objections to urge, do so before the magistrate. But, Sir, what reason or excuse an illiterate agriculturist can have to offer but his poverty? And poverty or poor condition may not satisfy a magistrate. He will say, if you own cattle it is your duty that you shall not come under the operation of this Act. It is not that the agriculturist comes under it voluntarily, but there are cases in which the matter is beyond his control. Sir, I belong to the Ratnagiri district though I do not represent it, and it is my experience of that district that many animals while they are out for grazing fall down from cliffs when they are fighting with each other and have their legs broken. Now anybody who is on bad terms with the owner of that animal may complain and bring that man into trouble and get him fined. The animal whose leg is broken will be sent to an infirmary and he will have to pay the cost of its treatment and if it exceeds the price realised on the sale of the animal he will be liable to pay the excess and that, too, not for his fault. If the animals have fought with each other and one of them comes down the cliff and gets its leg broken, is the owner of the animal in any way blamable? Sir, for this reason I beg to say that this sub-clause must not remain in the bill. As I have already stated, the original bill does not contain a clause to this effect, but on the contrary contains a clause that the owner shall not at all be liable for any excess. If we keep this sub-clause, we will be inflicting double punishment upon the owner of that animal. He is losing the animal and yet he is liable to pay the excess, and if he is not in a position to pay that excess, what is the result? In order to recover that excess steps will be taken against him so as to recover a fine. Perhaps his moveables will be sold and his homestead will be ruined. For these reasons I beg to move that sub-clause (8) be omitted.

Mr. G. C. BHATE (Kolaba District): Sir, I rise to support the omission of this clause, because I have given notice of an amendment to this effect and it has been circulated. The principal point under this clause is that.....

The Honourable the PRESIDENT: With reference to your notice of amendment, may I ask you hereafter to be very precise in mentioning the clauses? You say "clause 8." It is not clause 8.

Mr. G. C. BHATE: Paragraph 8 of clause 3.

The Honourable the PRESIDENT: Well, that you did not say. On that ground alone, I might have omitted your amendment; however, I thought it probably was merely a clerical mistake.

Mr. G. C. BHATE: The underlying principle of this paragraph is that the owner should be liable not only to the extent for the loss of the animal, but he should be liable also for the extra cost that will be incurred over and above the price of the animal. This paragraph 8 will form part of section 6 of the original Act. Now, if you look to the several parts of this section, then it will be found that paragraph 1 deals with the principal offence, while paragraphs 2, 3, 4 and so on, deal with another object altogether. Paragraph 1 deals with only the offence, and the offence mentioned in this paragraph has nothing to do with the offence that is mentioned in clause 2 of this bill. That is original section 3 of the original Act. Section 3 of the Act as amended by this bill deals with particular kinds of offences, while this section 6 of the old Act deals with penalty for employing an animal unfit for labour. So the offence under this section is different from the offence under section 3. Now, we have to see how far the owner should be liable under this section 6. The first paragraph deals with the manner in which an owner should be dealt with if he offends against the provisions of that paragraph. It reads thus:

"If any person employs in any work or labour any animal which by reason of any disease, infirmity, wound, sore or other cause is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees."

That is the principal offence, and the fine is to extend to one hundred rupees for that offence.

Now, the other paragraphs deal with the manner in which the cost of the treatment of the animal, as regards which the owner has committed offence, is to be recovered. Now, the question is how far the owner should be made liable, whether, over and above the loss which he suffers by losing the animal, he should be made to spend out of his pocket for the treatment. Paragraph 5 deals with the infirmary bill if the animal is sent to an infirmary. So all these clauses deal with the cost of treatment. Now, the utmost that can be said about this cost of treatment of the animal would be that the man should lose his animal, and not more. He should not lose anything over and above the price of the animal. And the difficulty is still more enhanced if we look at the provisions of paragraph 3. Paragraph (3) says:

"If, however, the magistrate decides that the animal will never again be fit he may direct that it shall be destroyed or sent to a pinjrapole."

That means if the animal is so unfit that it would never recover, the owner will lose the animal and nothing more. But if the animal is found to be such that by some treatment it would be a good animal and fit for use, then, of course, it could be sent to the infirmary. Then, what would be the result? The animal would be sent to the infirmary and the cost of the treatment would perhaps

[Mr. G. C. Bhate]

exceed the cost of the animal. If that be the case, the owner would be put to unnecessary loss. So this paragraph (8) is quite unnecessary if you look to the spirit of the section and the paragraphs that follow the first paragraph.

Then again, another point is that if this paragraph is retained, nobody would take care to see whether the cost of the treatment exceeds the price of the animal, because they will know that anyhow the price can be recovered from the owner. The infirmary people also may not take care in the matter. They will do anything they like and ultimately they will recover the cost from the owner though the price of the animal on sale would be only a few rupees. So there will be no check over the cost of the treatment of this animal. So, with this view also, this paragraph seems unnecessary and I strongly support the omission of this paragraph.

The Honourable Mr. M. H. W. HAYWARD: Mr. President, I am afraid I cannot accept this amendment for deleting this clause. The Council has already agreed to the general principle that the owner should be liable for the cost of the treatment of his animal if it is improperly worked when it is too ill to work. This clause simply provides the machinery for recovering that cost. If this clause is cut out, the result would be this, that the owner would still be liable for the amount and the amount would have to be recovered from him by the more expensive process, both to him and to others, of a civil suit. He would still remain liable and he would have to pay the cost of the civil suit in addition; so that, if this paragraph is cut out, as proposed by my honourable friend, he would be inflicting a greater injury on the people that he is endeavouring to protect. The clause as amended by the select committee has taken into consideration the possibilities he has referred to, of hardship on the owner, and it provides that the whole cost shall not necessarily be recovered from the owner. Under the clause, as originally drafted, it would have probably resulted in the magistrate not considering at all whether the whole of the cost or part should be recovered. He would, as a matter of routine, have ordered the recovery of the whole cost. Therefore, the select committee put in these words "to such extent as shall seem reasonable". That puts the magistrate on his guard. When he orders the recovery of the cost, he has to think and consider what are the circumstances, requiring this unfortunate fellow to pay more than the proceeds of the sale, whether the expenses have been entirely the fault of the owner or in part the fault of the hospital, and so on. And in order that the owner might have an opportunity to point out that he was not to blame for all the expenses, it is specially provided that no such order shall be made without the owner being given a reasonable opportunity of urging his objections. He might come forward and say "It is not fair that I should be made to pay all this cost. I went to the veterinary officer and told him it was useless expense and told him not to expend anything more on the animal. So, why should I pay? Make the hospital pay." This also meets the argument that the cost of treatment under this new procedure will necessarily and always exceed the value of the animal. If the owner is a sensible fellow, he will go to the hospital and say "Don't spend any more money on this animal; it is useless." And then, if he is told "Oh, you must pay the cost," he can urge the objection that he did tell the hospital not to spend any more money on the animal but the hospital would not listen to him. I submit, therefore, Sir, that this clause ought to be retained, as it is merely consequential on the general principle that has already been accepted by this Council.

Amendment put. House divided: Ayes 26; Noes 41. Amendment negatived.

DIVISION No. 2.

**Ayes.**

ADHAV, Mr. P. N.
BHATE, Mr. G. C.
BOLE, Mr. S. K.
CHAUGULE, Mr. ANNAPPA PHADEPPA.
CHIKODI, Mr. P. R.
COOPER, Khan Bahadur D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GODAD, Khan Saheb ABDULLA AVJAL
GULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
JADHAV, Mr. B. V.
KAMBLI, Mr. S. T.
MUTALIK, Sardar V. N.
PAHALAJANI, Mr. B. G.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
SAHEBWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SINDORE, Mr. H. N.
SURVE, Mr. A. N.
TRIVEDI, Mr. G. B.
VICHARE, Rao Bahadur D. A.

*Tellers for the Ayes*: Mr. B. G. PAHALAJANI and Mr. G. C. BHATE.

**Noes.**

BATLIWALA, Dr. S. S.
BHUTTO, Khan Bahadur, S. N.
BIRADAR, Sardar M. A.
CREAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DUBHASHE, Mr. SHANKAR BALKRISHNA.
DWARKADAS, Mr. KANJI.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH.
GRIFFITH, Mr. F. C.
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
HOOD, Mr. A. J. F.
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA.
ISRAN, Khan Saheb G. A.
KALE, Rao Bahadur R. R.
KANGA, Mr. J. B.
KER, Mr. J. C.
LAHORI, Khan Bahadur HAJI AMIRAL.
LALBHAI AMBARAM, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LORY, Mr. F. B. P.
MANSURI, Khan Saheb A. M.
MEHTA, The Hon'ble Mr. C. V.
MODI, Sardar Davar T. K.
MONIR, Mr. P. W.
MOUNTFORD, Mr. L. J.
NELSON, Mr. F.
NILKANTH, Rao Bahadur R. M.
OJHA, Mr. DIPCHAND T.
PAINTER, Mr. H. L.
PARANJPYE, The Hon'ble Dr. R. P.
PRADHAN, Mr. M. W.
PRORS, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM.
ROTHFELD, Mr. O.
SETALVAD, The Hon'ble Sir CHIMANLAL.
THOMAS, Mr. G. A.

*Tellers for the Noes* Mr. J. CREAR and Mr. M. W. PRADHAN.

Clause ordered to stand part of the bill.

Clause 1 (short title) ordered to stand part of the bill.

Preamble ordered to stand part of the bill.

Third reading.

The Honourable Mr. M. H. W. HAYWARD: I now move that the bill be read a third time, as there are no amendments.

Bill read a third time.

Question put and agreed to.

The Honourable the PRESIDENT: I now declare the bill passed.

## A BILL TO MAKE PROVISION FOR THE MANAGEMENT AND CONTROL OF CERTAIN OPEN SPACES IN THE CITY OF BOMBAY (BILL No. XV OF 1921.)

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Mr. President, under Standing Order 15 of Part VIII, I beg to withdraw Bill No. XV of 1921, a bill to make provision for the management and control of certain open spaces in the city of Bombay.

Bill withdrawn.

## A BILL FURTHER TO AMEND THE PRINCE OF WALES MUSEUM ACT, 1909 (BILL No. VIII OF 1922).

(As amended by the Select Committee).

Second reading.

The Honourable Dr. R. P. PARANJPYE : Mr. President, I beg to propose that Bill No. VIII of 1922 be read a second time. I might mention that .....

The Honourable the PRESIDENT : The proposal should be that the bill be *now* read a second time. The emphasis must be laid on the word 'now'. Otherwise, complications might arise.

The Honourable Dr. R. P. PARANJPYE : I beg to propose that the bill be now read a second time. I might mention that, at the last session, I introduced two bills relating to the same subject, and these two bills have been amalgamated into one. The second bill was only a very small bill with only one clause. You will find that the last clause, clause 4, of the bill is in fact the second bill.

The report of the select committee has been unanimous, and there have been no dissentient minutes. One point was raised by my honourable friend, the member for Kolaba district, about giving power to the trustees to sell some exhibits. However, he has agreed to retain this clause, in view of the fact that the exhibits.....

The Honourable the PRESIDENT : I beg your pardon. You have, first of all, to present the report of the select committee.

The Honourable Dr. R. P. PARANJPYE : Sir, I beg to present the report the select committee on the Prince of Wales Museum Bill.

As I was saying before, there was only one point raised by my honourable friend Mr. Bhate about giving the power to the trustees of this museum to sell or exchange the exhibits in the museum. However, he has agreed to retain the clause as it is, seeing that this power can be exercised only according to rules framed with the sanction of Government. All museums in fact have to have this power, in order that the work of the museum may be properly carried out. There may be duplicates, or there may be exchanges. I do not think there is anything further for me to say, except that an amendment on the same point has been proposed to be moved by an honourable member. I think all his objections would really be met by the conditions that I have mentioned, namely, " Subject to the provisions of any rules made by Government in this behalf, the board may, from time to time, etc. " So that, the rules will be made by Government, and therefore there is no danger of the board of trustees abusing this power. Any museum must obviously have this power, because some exhibits may get out of date and some other exhibits may be useless. Of course, it will be understood that any exhibit which has been presented to the museum and has to be sold will be sold only in accordance with the conditions of such a present to the museum. In fact, the board of trustees will necessarily make a condition, in the case of any such presents, to retain the power of selling or exchanging any such exhibits that they may think proper. That will be provided under the rules. Otherwise, the board will have no power to exchange or sell any exhibit if the amendment is passed. I do not think, therefore, that there should be any difficulty in the way of accepting the provisions of this bill, and I propose that it be read a second time.

Bill read a second time.

Question put and agreed to.

*Bill read clause by clause.*

Clause 2 (Amendment of section 3 of Bom. III of 1909) ordered to stand part of the bill.

*Clause 3. (New Sections 3A, 3B and 3C of Bom. III of 1909).*

3. After section 3 of the said Act, the following sections shall be inserted, namely :—

Term of office : election and appointment of new members if a vacancy.

"3A. (*1*) Members of the Board other than ex-officio members shall, save as herein otherwise provided, hold office for a period of three years.

(*2*) If a member, other than an ex-officio member

(*a*) dies, or

(*b*) is absent from the meetings of the Board for more than six consecutive months, or

(*c*) leaves the Presidency of Bombay with the intention of being absent therefrom for more than six consecutive months, or

(*d*) desires to be discharged, or

(*e*) refuses to act or becomes incapable of acting,

a new member may be elected or nominated, as the case may be, in the same manner as was the member in whose place he is to be elected or nominated and he shall hold office for so long only as such member would have held it if the vacancy had not occurred.

Power of Board to lend, exchange, sell or destroy articles in collections.

3B. Subject to the provisions of any rules made by the Government in this behalf the Board may, from time to time,

(*a*) deliver by way of loan to any person the whole or any portion of, or any article contained in, any collection vested in them under this Act,

(*b*) exchange or sell articles contained in any such collection and take or purchase in the place of such articles, such articles as may in their opinion be worthy of preservation in the museum,

(*c*) present articles contained in any such collection to other museums in India or elsewhere, and

(*d*) remove and destroy any article contained in any such collection."

Mr. A. N. SURVE (Bombay City, North) : Mr. President, the amendment which I beg to move is :

"In sub-clause (*b*) of New Section 3B, clause 3, line 21, after the words 'sell articles' add 'other than those presented'."

The honourable mover of the bill has stated that the donor will be informed that the trustees have the power of exchanging or selling the articles which he presents. But I ask, why accept those articles which are to be sold later on ? The museum first accepts the articles, and the trustees, in common civility, thank the donor, and later on they quietly sell them. This can be avoided by not accepting articles which are not worthy of a place in the museum. If we accept any article, I think, according to our notions of gratitude, those articles must not be sold. For this reason I move this amendment.

The Honourable the PRESIDENT : It is not my business nor my province to interfere with the merits, but on the point of order, in order to put honourable members on the right track, I should point out that the suggestion made by the honourable mover of the bill does not meet the difficulty raised by the amendment now moved. The difficulty is this. Take the case of a donor who presents articles to the museum, and the latter accepts on the distinct understanding and under an agreement that they are not to be exchanged or sold. Under this bill, if it becomes law, that contract will not be valid, because notwithstanding that contract, this law gives them the power to sell those articles. Has that difficulty suggested itself to the select committee or to the legal advisers of the Government ?

The Honourable Dr. R. P. PARANJPYE: So far as I understand, the trustees of the museum have already got the rule of not accepting any presents without this express power reserved to them.

The Honourable the PRESIDENT: That is another matter. That may be so. But when you are legislating, you are doing it in such a way as to make all contracts not to sell void. The provision "Subject to the provisions of any rules made by Government the trustees may exchange or sell any articles" does not quite meet the difficulty. So that, I am not entering into the merits of the question, but it is my duty to see that the Council addresses itself to the difficulty in this bill. I have put the Council on what I think is the relevant track, and now it is for the Council to pursue it as they like.

The Honourable Dr. R. P. PARANJPYE: The rules that will be made will make it clear that no articles will be accepted which cannot be sold.

The Honourable the PRESIDENT: The difficulty is that rules are made by the Executive Government, and Government becomes then the master of the situation. It is for the Council to decide whether it will leave the question to rules or deal with it in the enactment itself.

The Honourable Dr. R. P. PARANJPYE: If you want to lay down that an article presented to the museum should for all eternity be in the museum, it will handicap the proper conduct of the museum. For this certain rules must be made, and they must be in this manner. First of all, the article should be accepted on this understanding. If the donor does not want it to be sold, it should be returned to the donor.

The Honourable the PRESIDENT: I suggest to the Honourable Member to put himself in consultation with the Advocate General who has been good enough to give the benefit of his rare presence. To me it seems so. Also there is the Honourable the General Member whose legal erudition is well known. It may be that there is nothing in the point; but it seems to me that the point requires careful handling. Mr. Advocate General, have you understood that point? My point is that when a present is made and accepted, the museum authorities become the owners. Suppose that entering into a contract not to exchange or sell, the museum authorities accept an article conditionally. What is the legal result?

Mr. J. B. KANGA: The legislation prevails and the private contract would go.

The Honourable the PRESIDENT: The contract becomes void. Are you going to legislate to that effect?

Mr. DIPCHAND T. OJHA: Lawyers do err, but laymen consider themselves always on the safe side.

The Honourable Dr. R. P. PARANJPYE: I would add the following words:

"Except in cases where by the terms of a gift such exchange or sales are precluded."

The Honourable the PRESIDENT: I would then suggest to the honourable mover of the amendment to withdraw it by leave of the Council.

Mr. A. N. SURVE: I beg to withdraw my amendment, Sir.

Amendment withdrawn by leave.

The Honourable Dr. R. P. PARANJPYE : Sir, I now move the following amendment :

"At the end of new section 3 B, contained in clause 3 of the bill, add 'Provided that nothing herein contained shall authorise the trustees to lend, exchange, sell, present, remove or destroy any article when such lending, exchange, sale, presentation, removal or destruction, as the case may be, is precluded by the terms on which the Trustees may have received any such article.'"

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 4 (Amendment of section 8 of Bom. III of 1909) ordered to stand part of the bill.

Clause 1 (short title) ordered to stand part of the bill.

Preamble ordered to stand part of the bill.

Third reading.

The Honourable Dr. R. P. PARANJPYE : Mr. President, I beg leave to ask for suspension of Standing Order 11, of Part VIII, in order to enable me to move that the bill be read a third time.

The Honourable the PRESIDENT : I suspend the provision.

The Honourable Dr. R. P. PARANJPYE : I now move, Sir, that the bill be read a third time.

Bill read a third time. Question put and agreed to.

## A BILL FURTHER TO AMEND THE INDENTIFICATION OF PRISONERS ACT, 1920 (BILL No. XIV OF 1922).

First reading.

The Honourable Mr. M. H. W. HAYWARD : Sir, I now rise to move the first reading of a bill to further amend the Identification of Prisoners Act, 1920. It is a purely formal bill and I do not think it will give much trouble to the House. The Act to authorise the taking of measurements and photographs of convicts and others is commonly known as the Identification of Prisoners Act, 1920. It is a Government of India Act. It might not generally be realized that you cannot go and photograph a man and measure him without his leave ; if you do, he may take certain steps against you which would be unpleasant. It was therefore necessary in the case of convicts and under-trial prisoners to have some legal provision authorising the authorities to take photographs and measurements of them so as to be able if necessary to identify them afterwards. Certain powers for that purpose were then given to the police and magistrates under the Identification of Prisoners Act, 1920, by the Government of India. But unfortunately they overlooked the particular needs of the city of Bombay. It was overlooked that the city of Bombay has a special criminal procedure of its own and has magistrates who have a special designation of their own. It was overlooked that the criminal procedure of that city was as laid down by the Bombay City Police Act, 1902, and that the magistrates in the city of Bombay are not called District Magistrates or sub-divisional magistrates, but that they are called Presidency Magistrates. It was accordingly found when it came to working this Act that there were practical difficulties in the way owing to this unfortunate overlooking of the city of Bombay by the Government of India. This short bill is prepared in order to remove those difficulties and make it clear that even in the city of Bombay it shall be lawful for the police or magistrate to order the photographing and measurement of convicts or of under-trial prisoners. I think that principle will be accepted by the House. Therefore I move that this bill be now read a first time.

Bill read a first time. Question put and agreed to.

The Honourable Mr. M. H. W. HAYWARD : Sir, I now rise to move that
Second reading. the bill be read a second time.

Bill read a second time. Question put and agreed to.

*Bill read clause by clause.*

Clause 2 (Amendment of section 2 of XXXIII of 1920) ordered to stand part of the bill.

Clause 3 (Amendment of section 5 of XXXIII of 1920) ordered to stand part of the bill.

Clause 4 (Amendment of section 7 of XXXIII of 1920) ordered to stand part of the bill.

Clause 1 (Short title and extent) ordered to stand part of the bill.

Preamble ordered to stand part of the bill.

The Honourable Mr. M. H. W. HAYWARD : Sir, I now move that this
Third reading. bill be read a third time.

Bill read a third time. Question put and agreed to.

## A BILL FURTHER TO AMEND THE BOMBAY SALT ACT, 1890 (BILL No. XVIII OF 1922).

The Honourable Sir IBRAHIM RAHIMTOOLA : Sir, I beg to move that
First reading. a Bill further to amend the Bombay Salt Act, 1890, (Bill No. XVIII of 1922), be now read a first time. Sir, this is merely a formal piece of legislation which is required to put the employees of the Salt Department on the same footing as the employees of the Abkari Department. As pointed out in the statement of objects and reasons, desertions have been noticed among the employees of the Salt Department in the Northern Frontier and it is necessary to bring them under discipline on the same lines as provided in section 49A of the Bombay Abkari Act, 1878. The bill merely provides uniform discipline for the employees of both the departments, and I trust the Council will pass it.

Rao Saheb D. P. DESAI (Kaira District) : Sir, I oppose the first reading of this bill. When I read the clauses of this bill, I thought that it was directed against the officials of the Salt Department. But when I read the statement of objects and reasons, I found that it was an indenture bill, that the labourers and employees who were to work on the salt works were to be tied down to certain agreements and proceeded against for breach of the agreements. Perhaps there may be some valid reasons for the breaches of the agreements on the part of employees, and since we find that similar breaches in the case of mill hands and employees are not taken cognizance of by the State, I do not understand why the poor men working on the salt works should be punished in this way if they break the agreements. Government may come forward and set right any grievances that there may be of these workers and come to a sort of compromise. Again, Sir, what I do not approve is that this Government should go out of its way to compel our people to do forced labour for the benefit of India Government, and so we should set our faces against any measure of this sort. With these remarks I oppose the first reading of this bill.

Mr. G. B. TRIVEDI (Thana District) : Mr. President, I also oppose the first reading of this bill. When I read about the bill, I made enquiries from people who stay near about Kharaghoda and I understand that the conditions prevailing there are not the same as those prevailing in Thana and other

[Mr. G. B. Trivedi]

districts. The conditions prevailing at the Kharaghoda salt-pans, where this bill is to operate, are different from conditions prevailing elsewhere. My information goes to show that the pits in which these labourers have to work are so bad that their legs are affected and their health is affected by working in those pits. That is my information, and that the Government have done nothing in the way of providing good medical relief ; and there is another complaint that there is no good housing accommodation there and therefore the labourers are not attracted to this spot.....

Mr. O. ROTHFELD : No. no.

Mr. G. B. TRIVEDI : That is my information ; you may disprove it. And the third information which I have got is that the condition of these poor labourers is so bad that some people working for co-operative societies try to do something to ameliorate their conditions and the officials do not encourage that sort of thing. So that, it seems that the officials are against anybody improving the condition of these labourers and these labourers are to be treated as if they were indentured labourers. Therefore, I hope the Council will ask for more proof of the necessity for the bill and ask Government to defer the consideration of this bill and ask for more enquiries, unofficial enquiries, into the condition of labour there before they give their assent to the principle of the bill even. I therefore hope that the Council will oppose the first reading of the bill.

Mr. KANJI DWARKADAS : Sir, this bill was published in the *Government Gazette* on the 11th September and as yet the Presidency of Bombay has had very little time to form an opinion and to follow it through the public press and through other sources. I, therefore, request Government that they should postpone the first reading of this bill, so that, when we meet here again at the next session, there will be some public opinion formed regarding the bill. Yesterday, Sir, His Excellency the Governor referred to the legislation that is undertaken on behalf of labour. This is a legislation which is anti-labour and, before this Council is asked to give its approval to it, I only say that we should have more time to consider it.

Mr. DIPCHAND T. OJHA (Karachi City) : Mr. President, I rise to support the first reading of this bill. The principles laid down are in my opinion very commendable for the simple reason that we should not look to one side of the question only, *i.e.*, the labour class, but we must look to the side of the employers also. Of course, I have very little experience of the facts brought to notice by my honourable friend Mr. Trivedi so far as these salt pits are concerned, but from the little experience that I have had of the province of Sind, I know the labour class there is more of a nuisance than anything else... (Honourable Members : Order, order. No, no.) I am sorry to see that some of the Honourable members who say " order, order " and " no, no " have never seen Sind and yet they have the audacity to say that what I say is not true. I do not know whether my friends are aware of the Act which is called the Workmen's Act. Under that Act if any workmen receive any advances for doing work ; for instance on irrigation canals or elsewhere, they enter into an agreement with the employers, they receive money in advance and when the time to do work comes they clear off, with the result that the employers have to take legal proceedings in courts of law to get back the money from them. That is not all. The difficulty is further aggravated for the employers because they lose money, work is stopped, no further progress is made and the labourers absent themselves from the work and go and get themselves employed

[Mr. Dipchand T. Ojha]

elsewhere. Now, according to the contentions of Mr. Trivedi, the salt pits become injurious to the health of these labourers. If that is so of course, relief ought to be given. I quite agreee with him there that some medical measures should be taken whereby people working in salt pits may have no excuse to abandon work or to go away. In the case of other contracts such a contingency does not arise and yet we find labourers taking monies in advance and absenting themselves from doing their legitimate work. I therefore submit, having regard to these circumstances, that the principle of the bill is good. If there be any hard cases, we cannot judge of any enactment by one or two cases alone, we must look to the principle of law from a broad point of view and decide whether or not on the whole in the generality of cases such a principle will be good or bad. We cannot dispose of a bill or any principle of a bill by some stray cases and say that an enactment of the legislature proposed should be altogether done away with.

I subm t, therefore, that I am in favour of such legislation being enacted and that the bill as presented by the Honourable Member in charge of it should be read a first time and that any objections honourable members may wish to urge may be urged and considered in the select committee who will then be glad to say what they think should be recommended to the Council.

Mr. S. K BOLE (Bombay City), North : Mr. President, I rise to oppose the first reading of the bil . I think no case has been made out and no facts laid before the Council. Under those circumstances, the first read ng may be deferred to the next session. When we are raising a hue and cry against indentured and forced labour in countries outside India such as Africa and other countries, then in our own Presidency we should not allow these sorts of things. If they want to take any action, they may take action against these defaulters in civil courts; they should not go to criminal courts and have imprisonment for poor labourers. Under those circumstances, I oppose the first reading of the bill.

Rao Bahadur R. R. KALE (Satara District) : Mr. President, it appears that some of the honourable members of this Council seem anxious that they have not had sufficient time to consider this bill and that enough publicity has not been given to it, but I do not think that that is a reason for opposing the first reading of the bill. The bill may be read for the first time and if there is any necessity for its being published for the purpose of eliciting information thereon within a particular period, I think there is enough to be done at the subsequent stages of the bill and it will then be open to this Council to move that the bill may be published for eliciting opinion thereon under Standing Order VIII, 5, (c). So I think that, so far as the first reading of the bill is concerned, that may be allowed at this stage. I therefore submit, Sir, that there will be enough time for eliciting public opinion, although the time that may be now allowed to pass is somewhat short. Therefore, the proper course to adopt for the Council is to pass the first reading and then the Council will be well advised in asking it to be published for eliciting public opinion if necessary.

Mr. O. ROTHFELD : Mr. President, the honourable members who have opposed the first reading of this bill are, I think, under a misapprehension ; and I feel sure that the honourable member from Thana, who is against the very principle of the bill, will admit that the extreme cases which he has quoted (whether correct or incorrect) do not apply to this bill at all, as what is sought

[Mr. O. Rothfeld]

to do is to provide for penalties and punishment of the officers of the Salt Department on the same lines as in the Abkari Department. The misapprehensions have been caused.....

Rao Saheb D. P. DESAI : There are a large number of Bhils.

Mr. O. ROTHFELD : The misapprehensions have been caused by misreading the statement of objects and reasons, which runs as follows :—

> "As considerable difficulty has been caused by the desertion of employees in the Salt Department on the Northern Frontier where a large number of Bhils are employed, the necessity for a provision analogous to section 49A of the Bombay Abkari Act, 1878, has been felt....."

The meaning is that the necessity has been felt for maintaining in full strength the employees of the Salt Department, that is the officers referred to in the bill on works where a large number of Bhils have been always engaged as workmen. The bill itself does not refer to "workmen" as described by my honourable friend from Thana—had it been otherwise, I should have been quite at one with him.....

The Honourable the PRESIDENT : A statement by the honourable member in charge of the bill as to whether that statement is correct, I think will solve the whole difficulty.

The Honourable Sir IBRAHIM RAHIMTOOLA : The bill itself states it.

The Honourable the PRESIDENT : I think that solves the difficulty. Is it necessary to pursue the question about workmen and labourers, and fight with a shadow ? All reference to labourers is out of place as the bill does not apply to workmen.

Mr. O. ROTHFELD : I only want further to deny the allegations made as to the conditions of the workmen at Kharaghoda. That, I may assure honourable members, is not the case. The housing of the workmen there is excellent. I have had the pleasure of reporting to Government more than a year ago when I visited the place, that I have never been to a place where the housing of the workmen was so good as at Kharaghoda.

(The honourable member, at this stage, was inaudible.)

Orders of Government have been passed, and I hope and trust that we shall have co-operative societies working there soon.

Mr. B. G. PAHALAJANI (Western Sind) : Sir, I rise to a point of order. In the statement of objects and reasons the word "employees" occurs.

The Honourable the PRESIDENT : It is not a point of order. After the explanation which has been given by the Honourable Member, the Leader of the House, in charge of the bill and after Mr. Rothfeld's lucid explanation and the language of the bill itself, I put it to the Council whether it is worth while pursuing that point. The language of the statement of objects and reasons is perhaps misleading, but the honourable the mover of the bill has pointed out that if you only read the clause, it is quite clear. It only applies to revenue officers, and it is not pretended that any workman is a revenue officer. We must now look to the language of the bill. I do not think the matter need be pursued further.

Mr. B. G. PAHALAJANI : The principle of the bill is being discussed, but the statement of objects and reasons is conflicting therewith.

The Honourable the PRESIDENT : The principle concerns the revenue officer, not workmen and the question of the oppression of the labourers. That is clear from the provisions of the bill.

Mr. B. G. PAHALAJANI: The Honourable the Revenue Member has not said that it does not apply to employees.

The Honourable the PRESIDENT: Order, order. May I appeal to the Honourable the Revenue Member to make the point clear once more?

The Honourable Sir IBRAHIM RAHIMTOOLA: I was going to make that point clear in my reply. I have already said that it does not apply to workmen. It applies only to the salt officers. If necessary, I will explain the point once more.

The Honourable the PRESIDENT: I am trying to facilitate the discussion on the right lines. There is already an assurance given by the Honourable the Revenue Member that it does not raise the question of labourers—indentured labourers or otherwise. To whom else does it apply? The discussion so far went on the basis that the bill applied to labourers. That, I think, is out of the question now. Am I not right?

The Honourable Sir IBRAHIM RAHIMTOOLA: Yes, Sir.

The Honourable the PRESIDENT: Let the debate proceed upon that basis. The mover of a bill is entitled to two speeches, first in moving the bill, and in replying. But, with the assent of the House and the Chair, the mover may be allowed to speak as often as he likes, in order to explain the merits and to remove misunderstandings. Does the House give its assent to the mover to speak now?

Honourable MEMBERS: Yes.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, I well recognise, in view of the debate that has taken place, that the public has not had sufficient time—only eleven days—to consider a single section. I can quite understand that because I find that honourable members do not seem to have had time to study that one section. I will readily admit that the statement of objects and reasons does lead to misapprehension, and the debate that has taken place is probably due to the wording of the statement of objects and reasons. But, I would invite the attention of honourable members to the only section in the bill. It says:

> "Any salt-revenue officer—
>
> (*a*) who ceases or refuses to perform or withdraws himself from the duties of his office, unless he has obtained the express written permission of the Commissioner, or has given to his superior officer two months' notice in writing of his intention or has other lawful excuse, or
>
> (*b*) who is guilty of cowardice, shall on conviction before a magistrate be punished with imprisonment which may extend to three months, or with fine which may extend to three months' pay, or with both."

It will be apparent that the bill definitely applies to salt-revenue officers only. Even assuming that it did apply to the labouring classes, what possible connection can such a provision have with indentured labour and all the criticism that was applied to it? I want to deal with the whole of the criticism. Even assuming that the bill applies to the labourer, what is he expected to do? He is expected to obtain written permission of the Commissioner, or give to his superior officer two months' notice, or have some lawful excuse before he can cease to work. Now, is there anything unreasonable in that? I thought that this bill was so non-controversial that I expected to have all the three readings passed to-day. After all, who is going to be penalised under the Act? A man who ceases or refuses to perform or withdraws himself from his duties which he has voluntarily undertaken to do, without written permission of the

[Sir Ibrahim Rahimtoola]

Commissioner, or without lawful excuse, or without giving, instead of the ordinary one month's notice before he can leave, two months' notice. If he does any of these things, he is quite at liberty to go away. I fail to see what possible objection there could be to a provision of this kind.

Dr. S. S. BATLIWALLA: What about cowardice?

The Honourable Sir IBRAHIM RAHIMTOOLA: Surely, the men, when they are employed, know that they have to live in outside districts. Government have taken adequate precautions to give them police protection, and then, if in an emergency—that emergency is very remote—the man shows the white feather, then he is liable to be brought before a magistrate for enquiry whether he proved a coward at the time when he was expected to discharge his duties.

Mr. G. B. TRIVEDI: Is there now any difficulty?

The Honourable Sir IBRAHIM RAHIMTOOLA: There should be disciplinary measures in regard to employees in any important organisation. After all, the only difference between this law and the ordinary law is that this man will accept employment on the distinct understanding that he has to give two months' notice, instead of one month's notice. They are not indentured.....

The Honourable the PRESIDENT: I have read the section, and I see that it is not necessary for your purposes to go into the question of labourers. It is strictly confined to the salt-revenue officers.

The Honourable Sir IBRAHIM RAHIMTOOLA: I was justifying the attitude of Government, and it is my duty to point out that Government have not brought forward any legislation which can even be remotely criticised on these lines.

The Honourable the PRESIDENT: The discussion must proceed on this basis. It does not at all apply to labourers, and it applies to a revenue officer only. Upon that basis the debate should proceed.

Mr. V. R. GUPTE (Poona City): Mr. President with due deference to the Honourable the Revenue Member, I do not understand why this legislation is wanted by the Bombay Government, that one months' notice is not sufficient and that two months' notice is necessary.

The Honourable the PRESIDENT: That is a matter which can be brought forward at the second reading. That is a matter of detail. You can only discuss the principle now.

Mr. V. R. GUPTE: Ordinary law requires that one months' notice should be given by the employers, while this bill requires two months' notice. The other difficulty is this: that a man is to be punished for cowardice, which has not been defined in the legislation. I fail to understand why this sort of legislation is necessary, especially when the present difficulties are not mentioned. The explanation twice given by the Honourable the Revenue Member is most unconvincing and, as a strong case has not been made out for the enactment, I think we should oppose it.

Mr. B. G. PAHALAJANI (Western Sind): Sir, I oppose the first reading of the bill. The whole principle of the bill is involved in one section. The House will remember that in regard to a single section in a previous legislation it was stated that the Government experienced a new difficulty and that

[Mr. B. G. Pahalajani]

it was necessary to insert that section to tide over that difficulty. Such statement was then made in explaining the objects and reasons. In the first year of this Council, a small Act was brought forward, the Land Revenue Code amendment, in which a case arising in the High Court was brought forward as a reason for amending the section. Usually we see that the statement of objects and reasons that accompanies the bill supplies the information necessitating the bringing up of the bill. The statement that accompanies the bill to-day is unfortunately not correct. We do not receive from the statement of objects and reasons the slightest guidance as to the direction in which the Honourable the President has laid down that the discussion should proceed. The statement of objects and reasons is quite essential for the first reading of a bill. It is hardly fair to this Council that the bill should be based on the objects and reasons presented to us. When the Honourable Member in charge opened the first reading of the bill, and stated that the bill was necessary, he ought to have enlightened the House on the reasons that necessitated the passing of the bill. Those reasons are not placed before the Council. Under these circumstances, I think we are entitled to defer or not to read the bill for the first time, until the Council is placed in a position to know the reasons.

As regards the principle of the bill, I am unable to understand what is meant by "cowardice" and why two months' notice is necessary. I do not know whether the House is in a position to understand whether "cowardice" in the case of salt officers can be easily defined. Cowardice in the case of police officers who leave their post to which they are deputed, I can easily understand. The cowardice of a magistrate in hiding from a mob I can understand. But cowardice in the case of a salt officer I am unable to understand. The word 'cowardice' has to be defined. The word 'cowardice' and the words 'two months' notice' the failure of which does not only make him liable to forfeiture of pay, but also makes him liable for conviction for three months as is put down in the bill, I am unable to unsderstand: and I do not think that these drastic measures should be included in this bill. I submit, Sir, that the Government has not been fair to us in not giving us the exact reasons for which they seek to introduce this bill. I say the Government should come prepared next time to give us the exact reasons.

Rao Bahadur S. D. GARUD (West Khandesh District): Sir, I beg to oppose the first reading of this bill. I do not know, Sir, why this legislation is necessary, and why Government cannot by a modification of their executive rules, even drastic modifications, attain their object. According to the Fundamental Rules one month's notice has to be given. Government can order their officers to give two months' notice, or even three months' notice, as is done by local bodies. We do not know the reasons for this provision for three months' imprisonment, and we do not know whether it is to be simple imprisonment, rigorous imprisonment or solitary imprisonment. The person affected by this bill must at least have this point made clear. The object of the Commissioner is to get a certain amount of information. Well, I think, Sir, that even under the present rules, which are not made by the legislature but by executive order, Government do require their subordinates to give sufficient information before they are allowed to withdraw from service. I do not know then why this kind of drastic legislation should be required for the officers of the Salt Department. No one is willing to give up his service without any reasonable cause. The bill says that permission should be taken. This permission will be given after sufficient cause is shown. It will be left for the

[Rao Bahadur S. D. Garud]

Government or its superior officers to decide whether a particular cause is a reasonable one or not. I do submit, Sir, that for these simple things it is not necessary that the legislature should be moved to lay down a statute or enactment like this. It is not necessary to provide any rigorous or simple imprisonment. All that is necessary can be done by the department and the superior officers even without a legislation of this kind. If a man is punished by having his pay withheld or by dismissal, that would be quite ample. I do think, Sir, that Government ought not to come to the legislature for these simple provisions.

Mr. C. M. GANDHI (Surat City): Before I make up my mind to vote for the first reading of this bill, I think, Sir, the Council is entitled to know from the Honourable Member in charge of this bill why such a drastic section is required. The Salt Act has been in operation for 32 years—the Salt Act was inaugurated in 1890 and now it is 1922—and we do not find the necessity for such a measure on account of the desertion of any employees. If there have been frequent desertions of late, either there must be something wrong in the way the service is now taken or there must be some other reason. Therefore, the Council is entitled to know from the Leader of the House as to what has happened now which has induced Government to come forward with this legislation. I think it is rather unfortunate that when a bill deals only with one section, and has a statement of objects and reasons extending only to six or seven lines, that that statement should have been so unfortunately worded. Therefore, the Council ought to be placed in a position to judge as to whether any circumstances have now arisen which lead to constant or frequent desertion of employees and therefore legislation is necessary.

Mr. F. C. GRIFFITH: Mr. President, the salt officials concerned in this bill are a quasi-police force. They are well trained and they perform a very important service. I may refer to one incident. During the riots at Belgaum in 1909 these men performed an extremely important and very valuable service. It is, therefore, I think of very great importance that it should be recognised that they are a quasi-police force. As the police are required to give two months' notice before they submit their resignations, I think it is in the interests of Government that these persons also should be required to do the same. They are giving great assistance now in connection with dacoities in northern Gujarat. We have been told that we can rely upon them for assistance if necessity should arise. I submit, Sir, that if these men can quit at a moment's notice, then none of us knows where we are. It seems to me that the only sound way of dealing with the situation is to render such a desertion quite impossible.

Mr. A. N. SURVE (Bombay City, North): Sir, the wages which are given to the Salt Department servants are not adequate. I have not the last report of the Salt Department here, but I remember to have read in it that the revision of salary is overdue and it has not been sanctioned by Government. I have had a talk with many servants of the Salt Department, and they have told me that it is the Cinderella of the Government services; that the pay is very inadequate and the men are practically banished from society. Another point is that all these salt works, where these servants are expected to work, are insalubrious and unhealthy. The Honourable the Leader of the House has told us that these Government servants are not indentured servants and they can give two months' notice and get out of the service. With great respect I beg to say that if a man falls ill, then he will have only two alterna-

[Mr. A. N. Surve]

tives before him, either he must be where he is and go to the grave or he must desert his post and go to the prison. It may be urged that if a man is suffering from illness he can obtain leave, but it is my experience that the Government servants, when there is great pressure of work, even if they are actually suffering, do not get the medical certificate to go on leave. So, for these reasons I beg to say that the power which is sought by this particular clause is not necessary. It would just mean a sort of refined slavery. We know that the men are not adequately paid and still.....

The Honourable the PRESIDENT: The honourable member will not, I hope, repeat an argument. He has already referred previously to this question of the inadequacy of pay.

Mr. A. N. SURVE: Then, another thing is that the servants of the Salt Department are expected to do various duties and some of them are to detect illicit manufacture and smuggling of salt. Where there is a case of smuggling a Government servant has to take the odds against very dangerous and desperate people. These watchmen at the outposts, I think, are not supplied with arms and, if I am correct there, then I think they must not be held guilty of cowardice if they fail to face the smugglers, because for such small salaries they must not be expected to risk their lives.

Then, I think the sentence of imprisonment is too harsh a thing and the sentence of imprisonment should not form part of the clause. When a man deserts his post he actually incurs forfeiture of the pension or other privileges which he has earned in the service. Such forfeiture is sufficient punishment. If for the sake of discipline certain powers are required I suggest that some small fines not exceeding three months' pay would be adequate and that power Government may possess.

The Honourable the PRESIDENT: We will now adjourn for half an hour and resume at half past four.

*After recess.*

The Honourable the PRESIDENT: Order, order.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Sir, the bill before us, short as it is, is really very comprehensive in its nature. When we refer to the definition of 'salt revenue officer' as is given in the Act, we find that it includes any person. The amendment as proposed in this bill may affect any person who is an officer of the Salt Department either personally or in virtue of his office, or any Government officer of any other department either personally or in virtue of his office, or any other person with or without any of the powers prescribed or contemplated under sections 30, 35, 40, 44. That is, all persons who are entrusted with any duties as prescribed in these sections may be called officers, and the duties prescribed in these sections are so multifarious that any person having a few men under him to work may be called an officer in this respect. Whether he is really an officer in the sense in which we use the word in other departments would be open to question. Considering the position from this point of view, I think the power now contemplated to be given to Government under this bill is rather vicious in principle. This power should not be given to Government, when under the ordinary rules, the Fundamental Rules, Government wield ample powers. I, therefore, oppose the first reading of this bill on these grounds.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, I rise to support the bill before this House. I had occasion to go on this frontier line when I had been to Kharagoda and one night I travelled on horseback

[Khan Saheb A. M. Mansuri]

from Kharagoda to Viramgaum. I started about 11 o'clock at night and reached Viramgaum at 5 o'clock the next morning. I learnt from a friend of mine there that people in the dead of night bring opium and other articles which are smuggled, and when they get a scent of it the watchmen have to trace them and have to catch them. Many a time it happens—though when I travelled on horseback there I found to the credit of the Salt Department all the watchmen were very alert, though it was very cold in the night—that, when such a case has to be traced, these linesmen, not always but occasionally desert their officers out of cowardice and the result is that the case is lost. So it is in the interest of justice that such cases may not occur and such an Act, if passed, will give protection to Government and enable them to take steps against such coward people, and therefore I support this bill.

Sardar Khan Bahadur A. M. DALAL (Broach District): Mr. President, I think the Council is not yet convinced about the necessity of this bill. I quite admit that Government may have got very good grounds to show why this bill is necessary. One point which strikes me is whether Government is not able to do without legislation. Why differential treatment in the different services, especially in this Salt Department and the Excise Department? There must be something wrong why this proposal is not attractive. Cannot Government arrange to secure their object by other means, such as departmental rules? Legislation is very risky and sometimes it may endanger public safety. Therefore, I would request, that the whole question should be made quite clear and all the grounds made quite clear by Government before the first reading is accepted by the Council.

The Honourable Mr. H. S. LAWRENCE: Mr. President, perhaps I may say a word to remove some of the evidently serious misapprehensions that exist in the minds of some members in regard to this bill, and perhaps it would be useful if I state what this force is to which this bill is intended to apply. There is, as most members are aware, a very long frontier line to be guarded against smuggling. This line extends to the south of Bombay all along the border of Goa and to the north of Bombay it extends along the northern frontier. It protects the salt revenue and customs revenue of the Government of India, and the financial interests at stake are exceedingly important. If at any time the officials so employed desert their employments suddenly and leave large tracts on the frontier unguarded, smugglers would take immediate advantage of this apportunity and very serious loss of Imperial revenue would be the result. And if once the smugglers learn that the frontier is insufficiently guarded, you may be perfectly certain that organised bands will arise and that we should have serious disturbances in putting them down again.

Now, Sir, the proposed legislation is nothing new in principle to this province. It is exactly on a par with the provisions which apply to the whole of the police force and also it has been enacted ten years ago in regard to the Abkari force. But for the reason probably that the salt force has for many years been in a very high degree of discipline, the fact that this particular provision had never been enacted in regard to officers of the Salt Department had escaped notice. Quite recently cases of indiscipline have occurred in the Salt Department, and particularly on the Northern Frontier a section of the salt employees—(as mentioned in the statement of objects and reasons) a certain section of the salt force recruited from the Bhils—became disaffected. They quitted employment and threw the administration of that part of the frontier line into serious disorder. Then only the necessity of this provision

[Mr. H. S. Lawrence]

became evident and the proposal is simply to enact a section in precisely the same wording as has already been enacted in regard to the Abkari Act and the section is extremely similar—I do not know whether it is exactly the same—to that which applies to the whole of the police force. Now there you have this section already in force in regard to 30,000 men and we have heard of no complaint of hardship or injustice. The same section applies to the Abkari Department employing many hundreds of men and we have heard no complaints of hardship or injustice. I submit, Sir, that it is a matter that should not cause this Council any serious searching of heart if they apply to this other department those provisions which already exist and have never caused any trouble in regard to services which have contained many thousands of men and in which we have had no complaints of hardship or injustice.

The Honourable Sir IBRAHIM RAHIMTOOLA: Mr. President, I have not got much to add to the observations of my honourable friend Mr. Lawrence. I should like, however, to clear one or two points which have been raised in the course of the debate. The duties of the men who are proposed to be brought within the purview of this section are on many occasions akin to the duties of the police—that they have got to resist raiders and to pursue smugglers. It will, therefore, be obvious that duties of that character should be brought under discipline on the same lines as the police officers. Those men who are actually employed in the production of salt will not be affected by this bill.

Then there is one further point. The special occasion for bringing forward this measure at present has been explained by my honourable friend Mr. Lawrence, but there is one further point which may be stated in answer to the criticism that the Salt Act was passed in 1890, that it is 32 years old and that no amendment of this nature was found necessary. I may point out that only during recent years—within the last three or four years—the Salt and Excise Departments have been amalgamated and that while in regard to the Excise Department a section on identical lines (I will read it out to the Council for their information later on) has existed, there is none in the Salt Act. Now in the amalgamated department, one part of the officers is under discipline by section 49-A and the other part of the amalgamated department is not. I will read out to the honourable members section 49-A of the Bombay Abkari Act, 1878, referred to in the statement of objects and reasons. This provision was introduced in 1912 on the recommendation of the Excise Committee of 1905-06. If honourable members will compare the wording of the bill with what I shall be reading out, they will find that both are practically identical in language and in substance:

"Section 49-A:—Any Abkari officer who, without lawful excuse, shall cease or refuse to perform or shall withdraw himself from the duties of his office, unless with the express written permission of the Commissioner or unless he shall have given to his superior officer two months' notice in writing of his intention to do so or who is guilty of cowardice, shall, on conviction before a magistrate, be punished with imprisonment which may extend to three months, or with fine which may extend to three months' pay, or with both."

The duties of the amalgamated department are practically similar, but section 49-A applies at present to one part of that department, while the other part is free from this disciplinary measure. The question, therefore, is this, that duties which have got to be discharged by the officers of that department are similar and in many cases akin to duties of police officers. They have got to resist raiders and to pursue smugglers. Not to bring them under a uniform disciplinary system in both the departments will obviously appear as administratively unsound.

[Sir Ibrahim Rahimtoola]

As regards the various further criticisms which have been applied to the bill, they can be examined in select committee. The principle of the bill, as I have tried to explain, is the same as applies to one part of the amalgamated department. It will be perfectly open for honourable members when they examine the bill in select committee to see whether it can be improved or whether all the objections that may be urged are adequately met or not, but, Sir, I think that so far as the principle of the measure is concerned, there can be no question. I hope, therefore, that honourable members will pass the first reading.

Bill read a first time. Question put and agreed to.

The Honourable Sir IBRAHIM RAHIMTOOLA: After the explanation I have given, I do not know whether the Council desires that the bill should go to a select committee. I am willing that it should, but if the Council, is satisfied that there is no change between section 49-A of the Abkari Act, which I have just read out, and the clause in this bill, they may decide to pass all the three readings at this sitting. I am entirely in the hands of the Council.

The Honourable the PRESIDENT: I take it that the general sense of Council is that the second reading should be proceeded with.

The Honourable Sir IBRAHIM RAHIMTOOLA: I beg to move, Sir,

Second reading that the bill be now read a second time.

Bill read a second time. Question put and agreed to.

*Bill read clause by clause.*

*Clause 2 (New Section 48-A).*

After section 48 of the Bombay Salt Act, 1890, the following section shall be inserted, namely:—

Failure of salt-revenue-officer in duty. "48-A. Any salt-revenue-officer—

(*a*) who ceases or refuses to perform or withdraws himself from the duties of his office, unless he has obtained the express written permission of the Commissioner, or has given to his superior officer two months' notice in writing of his intention or has other lawful excuse, or

(*b*) who is guilty of cowardice, shall on conviction before a Magistrate be punished with imprisonment which may extend to three months, or with fine which may extend to three months' pay or with both."

Mr. C. M. GANDHI (Surat City): Mr. President, I beg to move an amendment to sub-clause (*a*) of clause 2 of the bill. I move that

'the words "without lawful excuse" may be added after the word "who" at the commencement of clause (*a*) of new section 48-A.'

Those are the words in the Abkari Act, and I think they should come in here in the bill as well.

The Honourable Sir IBRAHIM RAHIMTOOLA: But the words "other lawful excuse" are already in the bill towards the end of sub-clause (*a*).

Mr. C. M. GANDHI: But not in the place where I want them to be.

The Honourable the PRESIDENT: The words "lawful excuse" apply for the whole.

Mr. C. M. GANDHI: The words are "who ceases or refuses to perform for the Government," and I think these words will not be qualified by the words coming at the end of sub-clause (*a*).

The Honourable the PRESIDENT: The Honourable the Advocate General may help and say whether the language of the clause, as it is, is ambiguous.

Mr. J. B. KANGA: I think it does qualify. The clause says:

"Who ceases or refuses to perform or withdraw himself from the duties of his office,

(1) unless he has obtained the express written permission of the Commissioner, or

(2) has given to his superior officer two months' notice in writing of his intention, or

(3) has other lawful excuse."

The Honourable the PRESIDENT: The question of *sui generis* may come in.

Mr. J. B. KANGA: It might be argued in that way, but I think the words "other lawful excuse" are all right. I do not think there is any danger.

The Honourable the PRESIDENT: The Advocate General says that there is no danger of that construction.

Mr. J. B. KANGA: I am just now reminded that the rule of construction is always in favour of the subject, and therefore it will not be construed *sui generis*.

The Honourable the PRESIDENT: The only difficulty is the clause is differently worded from the Abkari Act.

Mr. J. B. KANGA: In a matter like this, there is always that difficulty. I think, as it stands at present, there would be no objection to it.

Mr. B. G. PAHALAJANI: Sir, I propose that the wording of the Abkari Act may be adopted in this matter.

The Honourable the PRESIDENT: The Advocate General says it is all right. It is for the Council to decide.

Mr. B. G. PAHALAJANI: The Advocate General will not be there before the judge on behalf of the accused.

Mr. M. A. HAVELIVALA: If it creates so much confusion here, it will create much more confusion in courts.

Mr. B. G. PAHALAJANI: Why not adopt the language of the old section which has stood the test of time?

Rao Bahadur R. R. KALE: It is open to any non-official member to make a motion referring it to the select committee.

Mr. M. A. HAVELIVALA: This will cause great confusion in the minds of honourable members, and quite rightly too. Why not adopt the language of the Abkari Act, which is on a clear basis?

The Honourable Sir IBRAHIM RAHIMTOOLA: You can take the sense of the House, Sir, as to which they will prefer.

The Honourable the PRESIDENT: I can do so by only having a question before the House. Mr. Gandhi, if you want to bring it in conformity with the Abkari Act, please redraft your amendment.

Mr. C. M. GANDHI (Surat City): I move that

"In caluse (*a*) of new section 48-A, clause 2, line 4. after the word 'who' add the words 'without lawful excuse' and leave out the words 'or has other lawful excuse' in lines 6 and 7."

Mr. J. B. KANGA: May I be permitted to speak, Sir? I say that in substance both the sections mean the same thing, but the language of the proposed section, clause 2 of the bill, is certainly better than the language of section 49-A of the Abkari Act. I say so, Sir, for this reason. That section of the Abkari Act runs:

"Any Abkari officer who without lawful excuse shall cease or refuse to perform, or shall withdraw himself from the duties of his office, unless with the express written permission of the Commissioner....."

(The honourable member at this point was inaudible.)
There would be some such implication. Therefore the proposed section makes it clear that if he ceases or refuses to perform, or withdraws himself from the duties of his office.....

The Honourable the PRESIDENT: What is the language in the Abkari Act?

Mr. J. B. KANGA: "Any Abkari officer who without lawful excuse"—'without lawful excuse' is put in first—"shall cease or refuse to perform, or shall withdraw himself from the duties of his office,"—'shall be punished' will come here—then "unless with the express written permission of the Commissioner." (At this point the honourable member was inaudible.) I, therefore, say that the proposed section removes all difficulties, and therefore the proposed section should be accepted. There it clearly lays down three conditions under which a man who ceases or refuses to perform, or withdraws himself from, the duties of his office will not be punished: (1) when he has obtained the express written permission of the Commissioner; (2) when he has given to his superior officer two months' notice in writing; and (3) when he has any other lawful excuse. I therefore submit that the proposed section should stand.

The Honourable the PRESIDENT: Well, after that the question is whether the honourable mover of the amendment (Mr. Gandhi) will drop his amendment.

Mr. C. M. GANDHI: In deference to the opinion of the Advocate General I beg leave to withdraw my amendment.

Amendment withdrawn by leave.

Rao Saheb D. P. DESAI (Kaira District): Sir, I beg to move:

"In clause 2, clause (*b*) of new section 48-A, before the word 'imprisonment' add the word 'simple'."

Mr. B. G. PAHALAJANI (Western Sind): I support the amendment, Sir, because according to the General Clauses Act, wherever the word "imprisonment" occurs, it may mean either simple or rigorous imprisonment. Therefore it is necessary that this Council should make it clear if it is to be simple.

Mr. C. M. GANDHI (Surat City): Sir, I beg to oppose this. If we reserve that section for the purpose of acting as a deterrent on officers who are inclined to desert when they are required to be on duty, there should not be only simple imprisonment.

The Honourable the PRESIDENT: Are you replying, Rao Saheb Dadubhai Desai?

Rao Saheb D. P. DESAI (Kaira District): I have to reply, Sir. For such offences as cowardice rigorous imprisonment is not necessary. Rigorous imprisonment is only awarded in such grave cases as theft, extortion and such like offences. But here for simple desertion I do not think it is necessary to

[Rao Saheb D. P. Desai]

award rigorous imprisonment. The object of the bill would be served by awarding only simple imprisonment.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, I hope the House will not accept the amendment. The punishment provided in this section is the same as in the Abkari Act. The word "imprisonment," as the honourable member Mr. Pahalajani has pointed out, covers both simple and rigorous imprisonment. The discretion will rest with the magistrate who will award either simple or rigorous imprisonment according to the offence committed. He has the discretion of not punishing to the extent of the full three months, but can give a few days' imprisonment. Three months' imprisonment is the maximum penalty which has been authorised, and the discretion should, I think be left to the magistrate as to whether the punishment should be rigorous or simple; that is on the same lines as the Abkari Act, and I hope the Council will not accept the amendment.

Amendment negatived.

Mr. S. K. BOLE (Bombay City, North): I beg to propose another amendment that the words "simple or rigorous imprisonment" may be inserted so that the magistrate may not.....

The Honourable the PRESIDENT: The honourable member may be reminded that the honourable member from Sukkur (Mr. Pahalajani) has drawn the attention of honourable members to the General Clauses Act where imprisonment means either simple or rigorous. The General Clauses Act has provided for it. So the amendment is unnecessary.

Mr. S. K. BOLE: I beg to move another amendment that, if the imprisonment is going to be rigorous, instead of "three months," it should be "one month". I therefore move that,

'In clause 2, clause (*b*) of new section 48-A, leave out the words "three months" and insert instead the words "one month".'

Amendment negatived.

Mr. B. V. JADHAV: I beg to move that the word "three" should be left out and the word "two" inserted in its place. The section requires two months' notice for enabling a revenue officer to resign his post. It means to say if an officer refuses to work without a proper excuse he is to be put in jail for three months as a punishment; but if he chooses to give notice, two months' notice will be quite sufficient, and therefore it is not necessary that he should be in jail for a longer period than two months.

The Honourable the PRESIDENT: You mean three months' imprisonment?

Mr. B. V. JADHAV: In line 10 the words are "three months"; so I think the punishment should not exceed two months. I, therefore, move that

"In clause 2, clause (*b*) of new section 48-A, leave out the word 'three' and insert instead the word 'two'."

Mr. DIPCHAND T. OJHA (Karachi City): Mr. President, in support of the amendment moved by my honourable friend Mr. Jadhav I would say that it is a pity that the first amendment was lost regarding imprisonment for one month. Now we are coming to two months' imprisonment as against three and I hope we shall all be ready to compromise on the situation. Supposing, Sir, for the sake of argument, a magistrate convicts and sentences him to rigorous imprisonment, which may be for the full period, that is, two

[Mr. Dipchand T. Ojha]
months, don't you think it would be very hard for the man to undergo the rigorous imprisonment, even for five days or ten days subjected as he would be to so many hard rules and regulations of the jail at present ? Nowadays we are all tired of these imprisonments and we all know, sir, that the treatment dealt out to the prisoners in the jails nowadays is extremely hard and we are hearing so much about it.....

Mr. M. A. HAVELIVALA : I rise to a point of order. Can the honourable member go into all these matters while dealing with this amendment ?

Mr. DIPCHAND T. OJHA : Well, Sir, I need not refer to others. In order to support my contention and convince my honourable colleagues that they should not vote for the proposition of three months' imprisonment, I merely quote certain instances to show whether or not imprisonment even for ten days or fifteen days or a fortnight, would not be very hard having regard to the present hard and drastic regulations and rules of the jail and whether we think, Sir, that under the present rules and regulations of the jail, even five days' imprisonment accorded to a prisoner would or would not meet the ends of justice. Why, Sir, therefore, should we go to two months' or three months' imprisonment and see the man in jail under the present rules and regulations of the jail ? I, therefore, say that it is a pity that the first amendment was lost and that we should all compromise in the matter and provide that not more than two months' imprisonment should be awarded—whether simple or rigorous I do not say—if we have any feeling for our fellow creatures.

The Honourable Sir IBRAHIM RAHIMTOOLA : Sir, when the sense of the House was ascertained as to whether the bill should be referred to a select committee, it was found that the honourable members were prepared to pass all the three readings now. After this, to bring forward these amendments, one after another, is hardly a consistent attitude. The point is this that the Abkari Act, provides a maximum penalty of three months and the discretion whether it should be simple or rigorous vests in the magistrates. The provision of that Act has been in operation for ten years and we have not heard a single complaint against the manner in which it has been worked. I do hope, Sir, that the Council will reject this amendment and accept the original clause as it stands, which is exactly what it is in the Abkari Act.

Question put that the word 'three' in clause 2, line 10, do stand part of the clause.

Motion carried.

Clause ordered to stand part of the bill.

Clause 1 (Short title) ordered to stand part of the bill.

Preamble ordered to stand part of the bill.

The Honourable Sir IBRAHIM RAHIMTOOLA : Sir, I beg to move that

Third reading. the bill be now read a third time and passed.

Bill read a third time. Question put and agreed to.

The Honourable the PRESIDENT : I declare that the bill is now read the third time and passed.

The Honourable Sir IBRAHIM RAHIMTOOLA : I propose, Sir, that item No. (10) on the agenda paper, Bill No. XVI of 1922 (A Bill to consolidate and amend the law relating to local boards), may be taken up now.

The Honourable the PRESIDENT : The Standing Order is that when Government business has precedence, they may arrange such business in such order as they deem fit. They need not give any notice.

Mr. M. A. HAVELIVALA: Still, Sir, it is due to the Council that we ought to know what business is coming on after what business. If the agenda is prepared and a certain order of business is shown therein, it is due to the Council that they should have notice of any change in the order; otherwise, why is the agenda prepared? There is a *prima facie* case for the Government to go in the order mentioned on the agenda. There is no meaning otherwise in our having the agenda.

The Honourable Sir CHIMANLAL SETALVAD: I may be permitted to mention to the Council, Sir, why it is desirable to take the Local Boards Bill now and not the Rent Bill although, as far as I am concerned, I am quite willing to proceed with the Rent Bill now. But I think it will make for greater convenience to the honourable members if we take up the Rent Bill to-morrow, for, although the report of the committee that was appointed on the Rent Act has been placed on the Council table, it will be more convenient for members to have a copy supplied to each of them, and that will be done to-morrow morning. If the Council wants to proceed with the Rent Bill now, I am quite ready to do so.

Mr. B. G. PAHALAJANI (Western Sind): If you will permit me, Sir, I want to make an appeal to Government in this matter. True it is that in accordance with the Chair's ruling Government can vary the order of business as they like. But all of a sudden to take up the last bill to-day and spring a surprise upon us is not fair. After all, we are entitled to certain consideration and courtesy and if we say to the Honourable Members of Government that we are not prepared to take up the Local Boards Bill at this time today—a bill which is the longest, and contains about 200 clauses and in which there are so many principles involved—I think it is quite fair that Government should listen to us in this matter.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, the two alternatives before the House are firstly that the Honourable the General Member should now move the first reading of the Rent Bill without waiting for the circulation amongst honourable members of the committee's report; the other alternative is that the Honourable the Minister for Local Self-Government should proceed with the Local Boards Bill and make his statement explaining the principles underlying it. That will take, having regard to the importance of the bill, a reasonable amount of time. After that speech is made, it will be time to consider whether we will go on with it or adjourn till to-morrow. I do not see that honourable members need object to the Honourable Minister expounding the principles of the bill. It will be open to the Council after the Honourable Minister has made his speech, to go on with the discussion or to adjourn till to-morrow. These are the two alternatives, either of which may be accepted.

Rao Bahadur R. R. KALE (Satara District): I think, Sir, that the alternative suggested by the Honourable the Leader of the House should be accepted and we should go on with the Local Boards Bill now.

Dr. S. S. BATLIWALA (Bombay City, North): Mr. President, I may mention that it has become a big public grievance—in fact a public scandal—that the report of the Rent Act Committee has not been before the public and it is with that view that we do not wish to go on with the Rent Bill just now. If we go on with the Rent Bill at this stage we shall be doing so when we are not sufficiently enlightened as to its merits mentioned in the report of the

[Dr. S. S. Batliwala]

Rent Act Committee, and I therefore suggest that we should now go on with other business and not with the Rent Bill.

The Honourable Sir CHIMANLAL SETALVAD: As regards, Sir, Dr. Batliwala's suggestion that there has been a public scandal in regard to the non-publication of the Rent Committee's report, I may tell the Council at once that the statement that the report has not been published is unfounded and that in saying what he did, Dr. Batliwala was speaking without knowledge of the facts. The report of the committee was published and put before the public and given to the press three or four days ago. A summary of the report has appeared in the press already.....

Dr. S. S. BATLIWALA: Only yesterday.

The Honourable Sir CHIMANLAL SETALVAD: It has been sent to the press and a copy has been placed on the Council table also. I quite agree that it will be more convenient for members each to have a copy and that is what we are going to do.

The Honourable the PRESIDENT: It is in Government's power entirely whether to take up this bill now or any other bill or no bill at all.

The Honourable Sir IBRAHIM RAHIMTOOLA: I think the general sense of the House is that the Local Boards Bill should be taken up on the lines I indicated and Government's decision therefore is that the Honourable the Minister for Local Self-Government should move the first reading of the Local Boards Bill.

## A BILL TO CONSOLIDATE AND AMEND THE LAW RELATING TO LOCAL BOARDS (BILL No. XVI OF 1922).

First reading.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Mr. President, I beg to move that Bill No. XVI of 1922 (A Bill to consolidate and amend the Law relating to local boards), be now read a first time. The enactments that have been in force up to date in regard to the local boards are the Sind Local Funds Act of 1865, the Bombay Local Funds Act of 1869 and the District Local Boards Act of 1884. The present bill proposes to repeal all these various Acts. After the passing of the Act of 1884, honourable members of this Council are aware that much water has flown under the bridge of local self-government. Various committees were appointed by Government to enquire into the question of local boards. It must be within the memory of members of this Council that a committee under the chairmanship of the Honourable Mr. Lawrence was appointed, known as the Lawrence Committee, which made its recommendations in 1915. After that, a small bill was introduced in the Council, but was subsequently withdrawn. A special officer, Mr. Martin, was then appointed to go into the whole question of the local boards, and he made a report in 1918. Again a committee was appointed under the chairmanship of Mr. Pratt which made its recommendations. All these recommendations have been carefully considered by Government who propose to give effect to such of the recommendations as are deemed desirable and also to introduce some further changes which have been found expedient. The present bill popularises the constitution of the local boards, widens the franchise, gives greater independence, wider powers and larger responsibilities to the local boards.

First, I will deal with the constitution of the boards. It will be necessary to mention here what was the position of the local boards under the Act.

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Under the Act of 1884, in talukas as well as in district local boards we had half elected and half nominated members. Recently, Government raised the elective number to two-thirds. The present bill proposes to give the taluka and the district local boards an elective element of not less than three-fourths, and a nominated element of only one-fourth. Out of this one-fourth not more than half will be salaried servants. Members of this Council will thus see that the present bill is a step forward in that direction. Again, under the Act, in the taluka and district local boards we had first official presidents ; then, recently, non-official presidents were appointed by Government. The present bill gives the taluka and district local boards elected presidents and vice-presidents. Further, it makes officials ineligible for the office of president and vice-president.

Now, Sir, I come to the franchise. I will first deal with the franchise in regard to the taluka local boards. Section 10 of the existing Act lays down the qualifications for a voter. Section 10 (1) says :

"Land-holders, whose holdings situate within the taluka are assessed (or in the case of alienated lands, would be assessed, if they were not alienated) to the land-revenue at not less than forty-eight rupees per annum....."

At present, under the Act, a man who is a holder of land of the assessable value of Rs. 48 per annum has the right of vote. The other qualifications for a voter are as follows :

"Persons who own immoveable property within the taluka, other than a holding described in clause (1) of section 10, estimated by the Collector to be not less than five thousand rupees in value ;

Persons, residing within the taluka, whose annual net earnings from any occupation are estimated by the Collector to be not less than five hundred rupees ;

Pensioned Government servants residing within the taluka whose pensions are not less than rupees fifty per mensem ;

Honorary magistrates residing within the taluka ;

Officiating revenue or police patels of villages within the taluka."

I have just mentioned to you that holders of alienated or unalienated land paying an assessment of Rs. 48, persons having immoveable property other than land of the value of Rs. 5,000, persons earning not less than Rs. 500 per annum, pensioners drawing a pension of Rs. 50 a month, honorary magistrates and officiating revenue and police patels have the right of vote. Now, if you turn to clause 15 of the bill, you will find that all these various franchises have been done away with, and the right of vote in the case of taluka local boards has been given to an owner or occupier of land, alienated or unalienated, of the assessable value of Rs. 8, and every other taxpayer, in the taluka. In the bill, the various franchises that I have mentioned have been done away with, and a general and uniform franchise has been laid down, giving the right of vote to an occupier of land of the assessable value of Rs. 8 and to every taxpayer.

Then, under the Act, let us see who had the right of returning members to the taluka local boards. I would refer honourable members to section 6 of the Act of 1884. Each municipality within the taluka, having a population of not less than 5,000, had the right of sending one member to the taluka board; secondly, one member (qualified as hereinafter provided) was returned by each of the several groups into which the villages in the area, subject to the authority of such board, were divided; and thirdly, one member was elected by the holders of entire alienated villages within the taluka. Under the bill, all these have been done away with. The municipalities, it may be said, have enjoyed this right for a long time, since 1884. My objection to their right of sending a member to the taluka local boards is that there is no community of interest between the

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municipalities and the taluka boards. Municipalities do not contribute anything to the revenue of the taluka boards. Therefore, they ought to have no right of sending a representative. Again, though the municipalities, under the Act, had the right of sending one representative to the taluka boards, the taluka boards had no corresponding right of sending a member to the municipalities. Therefore, this representation was illogical, and it has been done away with.

Coming to the holders of entire alienated villages, I must say that the withdrawal of their special right has evoked a storm of protest from the vested interests. They say that they have enjoyed the right for a considerable length of time, and therefore this right should not be withdrawn from them. But if you take into consideration the numbers of such holders of entire alienated villages, in Sind you will not find a single one; in some talukas, there may be one or two, but in the Presidency proper there are some talukas having 13, or 15, or 30 entire alienated villages. But I know of instances in which the holder of an entire alienated village sits quietly at home. He says, he will send a relative to be a member of the taluka local board. My reason for doing away with this right of the holders of entire alienated villages is that, in the first place, it is unnecessary, because these people have the right to vote already. They can come in through the common electorate. Secondly, when we are democratising the constitution, it is but fair that these aristocrats, who have enjoyed this special right for a considerable time, should climb down to the common level. It is in their own interest, because they will be in touch with their tenants. So, now the right of vote has been given to an owner or occupier of land of the assessable value of Rs. 8 and to every taxpayer, and they will have the right to return members and be returned to the taluka local boards.

Then I come to the franchise in regard to the district local boards. There was no direct election to the district local boards. The present bill proposes to create separate electorates for the district local boards. The members used to come in by indirect election, and I will show you who have the right to send representatives to the district local boards. Section 7 of the Act says:

"one member or, if Government so direct, two or more members for each taluka local board in the district, or one member for two or more local boards in the district, united for this purpose into a joint board, elected by the members of such board or joint board from amongst their own number."

The members of the taluka boards used to be about ten or twelve, a handful having the right of sending one member to the district local board.

(At this stage the Honourable the President withdrew and the Deputy President occupied the Chair.)

These local boards have no direct election by a distinct electorate, which is to come under this bill. Then:

"one member for each municipal district within the district containing not less than eighteen thousand inhabitants elected by the commissioners of such district from amongst their own number;"

I have shown the Council that this representation of the municipalities on the district as well as the takuka boards is illogical. There is no community of interest between them and such representation has been done away with under this bill. The other method of election is as follows:

"one member elected by the holders of entire alienated villages, if any, within the district from amongst their own number, or, if there is but one such holder in the district such holder himself or any person whom he nominates as his representative:"

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This right has now been withdrawn. The right of voting and the right of being elected to the district local boards is given now to an owner or occupier of land of the assessable value of Rs. 16 in some districts and Rs. 32 in others. This is entirely based on the Council franchise. As regards the franchise of other taxpayers also, I have shown that the present bill is a substantial step forward. It popularises the constitution, widens the franchise, and allows a large section of the public to partake in the administration of their own local affairs.

Now, I come to a very thorny question, that is, special constituencies for Mahomedans. This is a very old question. Before the introductoin of the Minto-Morley reforms, the representatives of the Mahomedans of the whole of India waited in deputation on Lord Minto, who was then the Viceroy, requesting him to grant separate representation by separate electorates on the councils as well as on the local bodies. In pursuance of this, the Mahomedans were given separate representation by separate electorates on the councils, and the question of separate communal representation on the local bodies was left out of consideration. After that, some Presidencies have given communal representation to the Mahomedans on the local bodies, for instance the Punjab, the United Provinces, and I shall come later on to this Presidency. This question of communal representation by separate electorates for Mahomedans in this Presidency was thoroughly investigated by the Pratt Committee, and their recommendation was that Mahomedans should be given such separate representation. Therefore, I am not introducing a new principle in the local bodies. Looking at the question from another point of view, the position is this. The Mahomedans are in a minority in the Presidency proper, and my Hindu friends are in a minority in Sind. If we give Mahomedans separate electorates, automatically my Hindu friends come in. Both these communities we find are sparsely represented by election.

(The Honourable the President at this stage resumed the chair.)

It might be said that, if they are not represented by election, let them come in by nomination. In the first place nomination is not looked upon with favour and, I do not think that any community, if it can be represented by election, would like to be represented by nomination. Moreover, it is very difficult to give adequate representation to the Mahomedans by nomination under the present bill, which gives three-fourths elected members and one-fourth nominated members. By nomination Government experts must come in to guide the local boards which are in their infancy. Then we want men experienced in the administration of the local boards who must come in by nomination, as they may not like to stand for election under the widened franchise. There are then a large number of minorities, such as, the Parsis, Indian Christians, backward classes, untouchables, Jains, Marathas, and so forth, who will have to be represented. This difficulty will increase as we go on increasing the elective element in these local bodies. I think there is no justification for the misgiving that communal representation by separate electorates will accentuate racial differences. What has been our experience in the past? Is not communal representation given to Mahomedans in the Council? Can any honourable member say that any Mahomedan member has raised a single sectarian question up to now? (Voices of 'Hear, hear' and 'Why') No. This principle has also been introduced in the municipalities of Sind, where Mahomedans are having separate representation by separate electorates. Mr. Ojha comes from Karachi and Mr. Pahalajani comes from

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Sukkur. There they have been working smoothly. A Mahomedan was elected president of the Karachi municipality unanimously, and my Hindu friends have been elected presidents of municipalities. They have elected a Parsi gentleman as president, and for the vice-president's place also they have elected a Parsi gentleman. Hence the assertion that communal representation accentuates differences is quite untrue; on the contrary, when you have representatives of both communities, neither community has any grievance. If anybody has a complaint he can refer to his representative. I, therefore, think communal representation has made for the present concord and co-operation between the various communities.

Another important change that is proposed by the bill is the removal of the sex bar. Under that, a woman, because of her sex, is disqualified for a seat or a vote. The present bill proposes to give her both the right to a vote and a seat.

Rao Saheb HARILAL D. DESAI: A woman has the right to vote. She is a voter under the existing Act.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: She has no right. Now, there might be some objection to this. Some people might have objection to their female relations' names being entered in the list of voters. But clause 11 makes it very clear that the voters' list—as regards those who pay assessment—will be prepared from the records of the Collector or of the revenue office. If a woman's name is there, it will appear in the voters' list. Therefore, to the contention that women's names should not appear in the list, my reply is that the names are already on record, and it is simply transferring the names from one list to another. Suppose a woman is eligible, and her name is not on the record, as this is only an enabling bill, she need not apply to get her name registered, or, if her name is not on the list of voters, she need not apply to get her name entered. In fact, this is a permissive provision. Those who like to do so may apply to get their names registered. This right is given to women, because we are now introducing free and compulsory education by a bill which makes the attendance of girls from six to eleven years of age compulsory. Our country cannot progress without female education or female suffrage. It is a permissive provision: those who like to do so may take advantage of it; those who do not, need not.

The Honourable the PRESIDENT: Does that permissiveness apply to women only, and not to men?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: It applies to both.

The Honourable the PRESIDENT: Then it applies to both. Then I want to know whether the bill removes for the first time the sex disqualification.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Yes. Under the old Act women were not entitled.

Rao Saheb HARILAL D. DESAI. They are entitled to vote, but not to be candidates for membership.

The Honourable the PRESIDENT: Let us be quite clear on that point.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: There is section 10 read along with section 11 :

" Unless disqualified on any of the grounds set forth in the next following section, and unless disqualified under section 25 or section 25-A or under any other law for the time being in force, the following persons shall be entitled to have their names entered in the list.... qualifying them to be elected '.....

Rao Saheb HARILAL D. DESAI : " To be elected ", and not " to vote."

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sections 11 and 18 make that clear.

Under the bill new disqualifications have been added to the disqualifications already existing and these have been taken from the District Municipal Act. Under the existing Act if a man is disqualified, unless that disqualification is removed by Government, he is disqualified for ever. But the present bill provides that after the expiry of five years he will be eligible even if Government has not removed the disqualification.

Then, as regards corrupt practices, as the law at present stands, a judge can declare any person against whom there appears evidence on the record, whether he be a party to the proceedings or not, to be disqualified. That is, suppose the proceedings are between A and B, and evidence is adduced that C, who is not a party to the proceedings, has committed an offence of corrupt practices, the Judge, as the law at present stands, can disqualify C. The present bill proposes a change in that respect, and that is that such a person cannot be condemned unheard, and that he should be given an opportunity to be heard.

Then there was no provision under the Act specifying the manner in which the resignation of a member should be effected. Such provision has been made.

Then a further provision has been made to allow presidents and vice-presidents of the taluka and district boards to carry on the administration of their boards even after the expiry of their terms of office till new presidents and vice-presidents are elected.

Then, I come to the important additions that have been made to the powers and functions of the boards. Wide powers and greater independence have been given by the bill to the local boards in regard to educational matters. Under the bill a school board will be created. This will consist of not less than 10 and not more than 15 members. Out of these not more than three will be nominated by Government and the remaining will be elected by the local boards, and they shall include persons experienced in education, women and representatives of minorities. Clause 36 therefore requires some verbal changes to this effect. For that clause, as it stands, is as follows :—

" In every district there shall be a committee called the school board ; subject to rules made under clause (c) of section 133 he school board shall consist of not less than 10 and not more than 15 members. Of these not more than three shall be appointed by Government. "

The remaining members can be elected by the district local boards and shall be persons experienced in education, including women or representatives of minorities or of municipalities in the districts which are not permitted by Government to manage their schools. The changes are that the school boards shall include representatives of the minorities and women. In regard to the latter requirement, I may say that as we are introducing free and compulsory education even for girls, it is but fair that the school boards should include women as well.

Mr. C. M. GANDHI : Will the Honourable Minister explain the scheme for representation of minorities ? Will you kindly give us the scheme how you propose to have the representatives of minorities ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: That will be under the rules. It is a matter of detail.

Now what is the position of the local boards in regard to education at present? Their schools are managed and controlled by the Educational Department. Their budgets are prepared by the educational authorities, and the local boards are mere bankers to supply money to them. Now they will have the power to control their own education provided they do not interfere with the salaries of the present teachers; they can appoint new teachers on any salaries they like, provided they fulfil the necessary qualifications. Further, they will prepare their own budget according to their own wants. They can, with the consent of Government, get the curriculum changed. I think honourable members of this Council will agree with me that this gives very wide powers to the local boards in the matter of education which they have not had before.

Another important change that has been effected by this bill is the establishment of public health committees. These public health committees will be wholly elected. If they like they may co-opt the Civil Surgeon. They will have the powers of the district local boards in the matter of public health. They can delegate their powers to any member or any honorary or stipendiary officer of the local boards because there might be difficulties, owing to the distance of some villages, and they can delegate their power to any honorary or stipendiary officer of their own or to any member. For instance, if they want to look after the health of a taluka, they can have a particular officer on the health committee and delegate their powers to him.

Mr. C. M. GANDHI: Will these public health committees supersede the village panchayats?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Then, the bill gives wider power to the boards over their own members, and the boards can hold them liable not only for misapplication of the boards' money, but for loss of the money or property of the local boards and they can file suits with the sanction of Government, and at the same time Government also has been given the right of filing suits. The sanction of Government is required because for the same cause of action two parties cannot file separate suits, and the reason why Government has been given the power of filing suits is that the board may not care to file suits against their own members or after filing the suits they may not prosecute them energetically. Further, they have been given the power to compromise suits, which power they did not have before.

Another important change that I would refer to is in regard to section 57 of the Act. Under section 57 of the Act, when the cost of a road under construction or repair exceeded 50 rupees per mile and when the cost of other works exceeded Rs. 500, the local board had to get the plans and estimates either prepared or approved by the Executive Engineer; this limit the bill proposes to raise from Rs. 50 per mile to Rs. 200 per mile and from Rs. 500 to Rs. 2,000, that is to four times the previous limit. However, this is a question for the select committee. Limits have been prescribed because most of the boards have not yet employed qualified engineers. If they have qualified engineers, then they could trust their own officers for the preparation of the plans and estimates. However, this is a question for the select committee and it will be considered there. As regards the execution of works, powers have already been given to the boards to execute their works through their own officers to the extent of Rs. 10,000. Some boards have been given this power already, and, if I am not mistaken, the Ahmedabad district is given power even to the extent Rs. 50,000.

[Khan Bahadur Shaikh Ghulam Hussain]

Then, I would draw the attention of this Council to clause 59 of the bill. To the obligatory duties some new duties have been added, namely, the registration of births and deaths. That is, under the bill it will be the obligatory duty of the local boards to keep a register of births and deaths to enable the public health authorities to have proper statistics. Then, another obligatory duty that has been added is in regard to anti-rabic treatment. At present, when the district local boards contribute a certain amount for anti-rabic treatment for the expenses of people who go from the district for treatment to other places, it is purely voluntary. Now the bill makes it compulsory, because the local boards might at any time decline to contribute when it is their duty. When people residing within their jurisdiction go for anti-rabic treatment, the boards must pay for it.

Then, they have been given discretionary powers to spend money on local industries, on works of public safety, and on any public receptions, ceremonies, entertainments, exhibitions, and so on. Wide powers have been given to them in regard to sanitary matters, and chapter V deals with these; and, if any of the orders or rules framed by the local boards in regard to sanitary matters are not followed, penalties are provided in that chapter.

At present, under the existing Act, local boards can deposit their funds in the Government treasury. The bill proposes to give them authority to invest their funds in banks which have the approval of Government or in such securities as have the approval of the Governor General; so that, if they have any large balances, they can earn interest on them.

I now come to the most important point, namely, the finances of the boards. At present the finances of the local boards are in an exceedingly bad condition. Government make very liberal grants to the boards and in fact contribute two-thirds of the expenditure on establishments, water-supply, communications, education and the like. Yet the boards are not able to meet all their demands. Therefore, the bill empowers them to levy taxes. At present the main source of their income is the one anna cess. The bill proposes to give them the power to raise the cess from one anna to two annas. It is permissible. If they require money for their needs, they may raise the cess by any multiple of three pies, if they choose.

Then again, under the Sind Local Fund Act, the jahgirdars or the holders of alienated lsand in Sind were charged 5 per cent. instead of one anna in the rupee as ce$_a$s. The present bill proposes to charge them one anna in the rupee inste d of 5 per cent. Further, the bill empowers the boards to levy cess on the water rate in the Presidency proper. In the Presidency proper, new schemes of irrigation have been undertaken, in some parts dry streams have been converted into perennial canals and they require bridges to cross them and I think it is a fair cess. Similar cess is levied in Sind as it is included in the land revenue assessment. Again, remissions have been done away with, because the cess is a rate for services rendered. Suspension is allowed in years of famine with the permission of the local boards.

Then, the boards are allowed to levy taxes as in schedule II of the Government of India Act, which the local authorities are allowed to impose such as toll, octroi, house-tax, taxes on sites, buildings and the like.

Another important change that is introduced by the bill is that, whereas under the Act the presidents of takuka and district local boards have no authority of appointing or punishing any of their officers or servants, the present bill proposes to give them the power of appointing their officers and servants,

[Khan Bahadur Shaikh Ghulam Hussain]

subject to rules made by Government to a certain limited extent and of punishing or dismissing them. If they punish or dismiss them, their decision will be subject to appeal to the boards. Further the local boards themselves will be allowed to punish or dismiss their servants for misconduct, under certain restrictions. These restrictions have been imposed on their powers in the interests of the officers, because we know that in the mofussil there are factions and parties. No officer will find his tenure of office safe if it is left to the sweet will of the members of the boards.

Lastly, the most important change made is that an alternative measure in the shape of dissolution is introduced in the bill. At present, under the existing Act, if a local board commits gross default or shows incompetence or abuses its powers the board is suspended, but by introducing this alternative stage of dissolution, if a board is dissolved, new elections will be held.

As I propose to refer this bill to a select committee, I do not think it necessary to dwell at greater length on the details of it, and I hope this Council will accept the first reading of the bill.

Rao Bahadur R. R. KALE (Satara District): I wish to have a ruling from the Chair as to the limit of the principle, because I have given certain amendments acting upon your ruling, Sir, last time. It is at page 82 of the Council proceedings. Thinking that if any amendments of principles have to be submitted, I have submitted them in accordance with that ruling. So, if those amendments can be regarded as amendments of principle, I should like to have a ruling on that point. If not, I should be obliged if you will enlighten us as to the course to be adopted in regard to these matters which are really rather of vital importance, so as to focus the discussion on the first reading of the bill. I have already submitted the amendments.

Mr. C. M. GANDHI (Surat City): Mr. President, I move

"That the further discussion of Bill No. XVI of 1922 be adjourned to the next session."

The Honourable the PRESIDENT: Do you want me not to answer Rao Bahadur Kale's question?

Mr. C. M. GANDHI: I have no objection, Sir.

The Honourable the PRESIDENT: Our Standing Order distinctly provides that on first reading an amendment of the principle of the bill may be moved. You can only amend the principle of the bill. Now, the principle of the bill means a principle which governs the whole of the bill, forms its fundamental essence, goes to the very root of it, constitutes such a strong feature of the whole bill, all its provisions taken together, that if the principle is given up by an amendment the whole bill is imperilled, is either emasculated or abandoned. That principle of the bill as a whole has to be determined from the title of the bill, from the statement of objects and reasons, from the policy and from the substance or purport of the whole bill. A principle of the bill may also be contained in a section of the bill, but before it can be regarded as a principle of the whole bill, that principle so embodied in any particular section must so necessarily hang together with the rest of the bill as to become a principle of the whole bill so that if that section is deleted, the whole bill falls to the ground.

These are the two tests by which you have to determine the principle of the bill and I shall decide when any amendment is moved whether the amendment is in order or not.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : As to communal representation, it would be better to decide it at the second reading.

The Honourable the PRESIDENT : Yes, it may be discussed in the select committee.

Rao Saheb HARILAL D. DESAI (Ahmedabad City) : The only difficulty would be that provisions of this character run through several clauses of the bill, and if no decision is reached about them, there would be difficulty as in the case of the Municipal Bill.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I may assure the honourable member that there are not many provisions of such a character in the bill.

Rao Saheb HARILAL D. DESAI : One of the principles is whether there should be taluka local boards or not. That is a principle which runs through several clauses of the bill.

The Honourable the PRESIDENT : Order, order. I have thought over that question of the taluka local boards ; that is a question of detail, and I have no hesitation in saying that it is a matter which can be dealt with in the select committee and the second reading.

Rao Bahadur R. R. KALE : The franchise question also includes the question of co-option ?

The Honourable the PRESIDENT : I think co-option is a matter of detail.

Mr. B. G. PAHALAJANI : Is the question of taxation a matter of principle or a matter of detail ?

The Honourable the PRESIDENT : I have already given two tests by which you can determine the answer to the question.

Mr. B. G. PAHALAJANI : A member may get up and say that this question is left out, and the proposals as to taxation must be modified.

The Honourable the PRESIDENT : Is your question whether the local boards ought to be empowered to tax themselves ?

Mr. B. G. PAHALAJANI : Yes, Sir.

The Honourable the PRESIDENT : That is a matter not forming the fundamental principle of the bill, because even if they are not empowered, then some other way may be found out for providing them with funds. Therefore, I hold that is not a matter of principle and any modification may be made in that. It is a matter of detail. I do not wish to be drawn any further, for that may encumber me when concrete instances arise.

Mr. C. M. GANDHI : I move that consideration of Bill No. XVI of 1922 be adjourned to the next session.

The Honourable the PRESIDENT : Under what Standing Order ?

Mr. C. M. GANDHI : Under Standing Order IV, 4, (1).

The Honourable the PRESIDENT : The Council is adjourned till 2 p.m. on Saturday, the 23rd September 1922.

*Saturday, the 23rd September 1922.*

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The Council re-assembled at the Council Hall, Poona, on Saturday, the 23rd September 1922, at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHAUGULE, Mr. ANNAPPA PHADEPPA.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA.
DWARKADAS, Mr. KANJI.
FERNANDES, Major C.
FERREIRA, Mr. D. J.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH.
GODAD, Khan Saheb ABDULLA AVJAL.
GODBOLE, Dewan Bahadur K. R.
GRIFF r. F. C.
GULAMHUSEN, Mr. SULTANALI SALEMANJI.
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HAJI KHAMISO GUL MAHOMED, Mr.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA.

HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
HOOD, Mr. A. J. F.
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA.
ISRAN, Khan Saheb G. A.
JADHAV, Mr. B. V.
JENNINGS, Major-General W. E.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
KANGA, Mr. J. B.
KER, Mr. J. C.
LAHORI, Khan Bahadur HAJI AMIRALI.
LALBHAI AMBARAM, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LORY, Mr. F. B. P.
MANSURI, Khan Saheb A. M.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MODI, Sardar Davar T. K.
MOHOMED SALAHUDDIN K., Mr.
MONIE, Mr. P. W.
MOUNTFORD, Mr. L. J.
MUTALIK, Sardar V. N.
NELSON, Mr. F.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PAINTER, Mr. H. L.
PARANJPYE, The Hon'ble Dr. R. P.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM.
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.

SAYED, Mr. MAHOMED KAMAL SHAH.
SAYED, SHAHJADE SAHEB HAIDAR SAHEB.
SETALVAD, The Hon'ble Sir CHIMANLAL H.
SHIRRAS, Mr. G. FINDLAY.
SINDORE, Mr. H. N.
SURVE, Mr. A. N.
THAKOR of AMOD, Sardar NAHARSINGHJI.
THAKURDAS, Mr. PURSHOTAMDAS.
THOMAS, Mr. G. A.
TRIVEDI, Mr. G. B.
VICHARE, Rao Bahadur D. A.

## LOCAL BOARDS BILL (BILL No. XVI OF 1922).

*Debate on the motion for adjournment of consideration of the first reading resumed.*

The Honourable the PRESIDENT: I must apologise to the honourable member for Surat (Mr. Gandhi) for what I said yesterday with reference to his motion for an adjournment of this bill under the Standing Order he referred to. He was in order, and he has drawn my attention to a very important question. That particular Standing Order which entitles any honourable member to move a motion to defer the consideration of a bill at any time in preference to any motion before the Council gives a very important right. The rule is an exception to the general rule that no business of the Council shall be interrupted by any other proceeding. One exception is the motion for the adjournment of the House in order to discuss a definite matter. Secondly, if there is a bill down upon the paper either for the first reading, or second reading, or third reading, and a debate is going on upon some other subject, any member can rise and say that that bill should not be taken up during that session, but should be adjourned to the next session or so. Therefore, I will allow the honourable member to move the motion under that Standing Order. It will not be an amendment, but a substantive motion.

Mr. C. M. GANDHI (Surat City): Sir, I move—

"That the consideration of the first reading of the Bill to consolidate and amend the law relating to local boards, Bill No. XVI of 1922, be adjourned to the next session of the Council."

The Honourable the PRESIDENT: There cannot be a debate upon it beyond the limit prescribed in the Standing Order, *viz.*:—

"A brief explanatory statement from the mover of the motion and, if the motion is opposed from the member opposing the motion"

is all that is allowed if the Chair permits. Then the question is put.

Mr. C. M. GANDHI: Will you allow me to give my reasons?

The Honourable the PRESIDENT: Yes.

Mr. C. M. GANDHI: The reason why I move this motion is certainly not with a view to obstruct the author of the legislation in bringing forward this legislation, but I think it is a bill of far-reaching consequences affecting rural areas. It has not been published in the vernaculars. There are members of this Council who do not know the English language, and one of them coming

[Mr. C. M. Gandhi]

from the Panch Mahals told me that he was at a great disadvantage in following the bill, because he had not the advantage of reading it in the vernacular. It is therefore necessary that you, Sir, under the power that the Standing Orders give you after the bill is introduced, should be pleased to insist that translations of the bill should be published in the vernaculars of the province. I refer to Standing Order VIII, 2. Even copies in the English language were not available to members of district and local boards in the Surat district, who were called to our conference, and when they wrote to the Government Central Press asking for copies of the bill they were told that spare copies were not available. The bill was published so late as the 24th August, and we have not had even a month to consider its provisions which were in many respects complex and defective. When the Ministers of Local Self-Government in other provinces have thought it necessary to have an informal conference to discuss the lines on which such a measure should be brought, the Honourable Minister in this case did not think it proper even to send this bill to district boards and taluka boards for opinion. Government took something like seven years to mature their proposals and we are asked in less than seven weeks to consider a bill comprising something like 136 sections. There is no very great hurry about it. Legislation of this character can be carried only after the considered opinion of the people affected thereby has been ascertained. I think the Minister would be well advised in accepting my motion.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, I beg to oppose this motion. I am sorry that the honourable member for Surat has made a choice to oppose a bill of this character. If I remember rightly the expedition of this bill was pressed by several questions put in this Council in previous sessions. It is admitted, Sir, that the bill has been hatching for the last seven years. A large number of witnesses have been examined; two committees have looked into it; and the bill was almost ready at the time when the constitutional change came. I cannot see what grounds there are for shelving the bill. I suspect that the grounds are really that some of our friends think that there are certain things in the bill which militate against the real advance of local self-government inasmuch as it empowers local bodies to impose a schedule of taxes which is approved of by Government.

Then again, it has been complained that the bill has not been translated. I remember to have seen the bill long ago, wherein the instruction was that it was to be translated. I believe that instruction has been taken into account and has been put into action. But I do not know for certain, and I would not therefore dogmatise, but I believe that the bill has been translated.

Now, as regards the objection that the bill is so complex as to require very serious consideration at the hands of this Council, I must say that the honourable member need not have taken this rather deliberate step of shelving the bill,—he will pardon me for saying this. This bill is not intended to make any revolutionary changes. If you would allow me to say so, all major changes that are proposed by the bill have already undergone the experimental stage in various districts. It is no doubt true that the speedy advance in those areas is responsible for the introduction of those changes in various other districts.

Now, after the explanation made by the Honourable Minister yesterday, I do not think that our honourable friend from Surat wants the Council seriously to take it that the bill is so complex that it cannot be comprehended by this Council even when it is referred to the select committee. At one time I was rather disposed to have it passed at a single sitting. But perhaps the

[Rao Bahadur G. K. Chitale]

Council is not in a mood to accept that position but surely there could be no serious objection to allow it to be looked into carefully by a select committee. On the one hand we want a speedy advance of self-government, a wider change of constitutional progress. But at the same time we are afraid of taking the responsibility of taxation. My honourable friends want the responsibility of self-government but when it comes to putting up of taxation, they do not want to take any responsibility, and they think it fit to continue the present state of affairs for some time. I believe that is one of the causes which is at the back of this movement to shelve the bill for six months, so that they are hoping that the atmosphere in Gujarat after winter will be more congenial. But let me assure them that if they look at the bill in its full face, what is it ? You have the District Municipal Act which you have been administering for many years. Look at the changes which are now proposed to be made by this bill. If the changes that are proposed to be made are taken into consideration can any one say that we are taken by surprise as regards these changes, which you have got in this bill ? I do not wish to make a long speech—I did not want to speak at all as I am not in proper health—but I think it my duty to oppose this motion, because, I claim that this is not a bill which is at all of a revolutionary nature : but it is based upon experience which has been gained for the last four years since the report of the Pratt Committee and other changes subsequent to that report.

Now, is it seriously suggested that my honourable friend from Surat has any fear of this bill or that the recommendations which were mentioned in that report of Mr. Martin were made much of ? I know that there are a number of changes in this bill which will not be found in Mr. Martin's bill. Changes as regards communal representation and several other changes on those bases are after all changes over which there is room for honest difference of opinion. But after all that is said and done, what is it that the bill aims at ? Now let me ask my honourable friends, do they mean that the district local board as long as it exists should have no power of taxation ? There was the one anna cess and it was imposed by Government, and local boards were asked to go on with it only and 88 per cent. of their expenditure came from Government. Now this bill no doubt makes a change inasmuch as it asks the local bodies to take up primary education in accordance with the Primary Education Bill and asks them to meet the cost by levying taxation. And then you prick your ears, make your eyes rather wide and say, what is this ? what will people say ? election is coming on next year, this bill could be brought in the next session. And in the next session perhaps another game may be tried to shelve the bill and it may be said as election is coming near let us see what our successors would do and in the meanwhile let us enjoy at the expense of Government with all the funds that they will give us.

In fact the Montford Report puts it in the forefront that as far as local self-government was concerned Government was willing to take a long step forward to make the local boards independent as much as possible. Now when we have been waiting for the last six years for this step forward and for these changes, and now when some of these changes are brought forward in the shape of this bill, I do not think it will be a wiser course to find some excuse and say that we do not want taxation at present and that it is better to shelve the bill for some time.

Under these circumstances, I do feel it my duty to protest strongly and very strongly indeed against this motion and I would urge that after all let

[Rao Bahadur G. K. Chitale]

us send the bill to the select committee ; let the select committee be as big as possible, and let the select committee look at it from all points of view of squaring up differences, so that when the second reading comes in you may be in a position to amend it in the best way you like. That, I think, is a much better course and a wiser course than to wreck the bill in its initial stage, and I hope the motion will be thrown out unanimously.

Mr. DIPCHAND T. OJHA (Karachi City) : (Stands up.)

The Honourable the PRESIDENT : There can be no further debate. Question put. House divided. Ayes, 21. Noes, 53. Motion negatived. Division No. 3.

**Ayes.**

BHATE, Mr. G. C.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GODAD, Khan Saheb ABDULLA AVJAL.
GULAMHUSEN, Mr. SULTANALI SALEMANJI.
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA.
MODI, Sardar Davar T. K.
MUTALIK, Sardar V. N.
NILKANTH, Rao Bahadur R. M.
PARULEKAR, Rao Saheb L. V.
PATEL, MR. B. P.
PATEL, Mr. J. B.
SAHERWALA, Khan Saheb I. A.
THAKOR of AMOD, Sardar NAHARSINGHJI.
THAKURDAS, Mr. PURSHOTAMDAS.
TRIVEDI, Mr. G. B.

*Tellers for the Ayes :* Rao Saheb D. P. DESAI and Mr. C. M. GANDHI.

**Noes.**

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHAUGULE, Mr. ANNAPPA PHADEPPA.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DUBHASHE, Mr. SHANKAR BALKRISHNA.
DWARKADAS, Mr. KANJI.
GHULAM HUSSAIN, The Honourable Khan Bahadur SHAIKH.
GRIFFITH, Mr. F. C.
HAJI KHAMISO GUL MAHOMED, Mr.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA.
HAYWARD, The Honourable Mr. M. H. W.
ISRAN, Khan Saheb G. A.
JADHAV, Mr. B. V.
JENNINGS, Major-General W. E.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
KANGA, Mr. J. B.
KER, Mr. J. C.
LAHORI, Khan Bahadur HAJI AMIRALI.
LALBHAI AMBARAM, Mr.
LAWRENCE, The Honourable Mr. H. S.
LORY, Mr. F. B. P.
MANSURI, Khan Saheb A. M.
MEHTA, The Honourable Mr. C. V.
MAHOMED SALAHUDDIN K., Mr.
MONIE, Mr. P. W.
MOUNTFORD, Mr. L. J.
NIMBALKAR, Mr. K. B.
OJHA, Mr. DIPCHAND T.
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PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Honourable Sir IBRAHIM.
ROTHFELD, Mr. O.
SALGAR, Mr. R. G.
SAYED NABI BAKSH SHAH.
SETALVAD, The Honourable Sir CHIMANLAL H.
SHIRRAS, Mr. G. FINDLAY.
SURVE, Mr. A. N.
THOMAS, Mr. G. A.
VICHARE, Rao Bahadur D. A.

*Tellers for the Noes :* Dr. S. S. BATLIWALA and Rao Bahadur R. R. KALE.

*Debate on the first reading of the bill resumed.*

Mr. D. D. GHOLAP (Addressed the House in Marathi) : Sir, the Local Boards Bill is being considered by the Council from yesterday, and from the speech of the Honourable Minister for Local Self-Government, one would gather that this bill is a step forward in the direction of self-government or responsible government. I regret, however, that I am not in agreement with the views propounded by the Honourable Minister in certain respects. Looking generally at some of the provisions as framed by the Honourable Minister, there appears to me a tendency on the part of the Minister to be a little partial. That is to say, in this bill the Mahomedans have been given separate representation and, in order to support his own view in regard to such separate representation for the Mahomedans, he has relied on the reports made by the two Local Boards Committees, the Lawrence Committee and the Pratt Committee. But I am sorry to observe that, as regards non-Mahomedans, especially those Hindus who are socially, politically and educationally the most backward,—I mean the depressed or untouchable classes,—no provision is made in this bill for their separate or special representation. If we look at the matter from a practical standpoint, we shall find that among the Mahomedan community there are several people who can be classed among educated and well-to-do people, and even if they are not given separate representation, they would not find any considerable difficulty in getting in on the local boards. But the same cannot be said of non-Mahomedans, I mean especially Hindus belonging to the depressed or untouchable classes. I do not know whether the Honourable Minister has at all embodied any provisions in the bill to safeguard the interests of these classes, but, so far as I can make out, he does not seem to have done so. I would draw the Council's attention to the fact that, under the Reforms, Government have reserved one seat on this Council for these classes.

If no such special concession is given to the depressed classes, as has been given to Mahomedans, I do not see how these backward people can hope to get elected on the district and taluka councils. I think I had better tell the House how in the Honourable Minister's own department grave injustice is being caused to my backward community. At present we have what are called village panchayats in this Presidency, on which members can hope to sit by election. How can our depressed classes manage to come on such boards ? I remember an actual instance of how one gentleman from the depressed classes fared in spite of the fact that he was paying land revenue assessment to the tune of Rs. 400 annually. This gentleman stood for election for a village panchayat, but being a Mahar—rather a member from the depressed classes—his name was cleverly placed at the end of the list on account of his sin of being a depressed class candidate and the members of his caste were made to keep a long way from the polling station. The evident motive in the minds of those who manœuvred this gentleman out of the election in this manner seemed to be the undeniable and unremediable fact that he belonged to the untouchable part of the population and that therefore he should not be let in. He was thus deprived of a chance of serving on that village panchayat. If a man paying a land revenue tax of Rs. 400 cannot succeed in a village panchayat election, how members of the depressed classes paying Rs. 8 land assessment can have the slightest chance of sitting on the district or taluka local boards I for one cannot understand, unless of course the Honourable Minister sees to it that special provisions similar to those made by him for Mahomedans are made for depressed class people also. If my people cannot at present get the benefit of the rules and regulations under the Local Boards Act even under the

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administration of the Honourable Minister, it is difficult to imagine how the situation is likely to change for the better under the provisions of the bill before the House, unless, as I said, by means of some such privileged way as is sought now to be kept open for Mahomedans. I therefore suggest to the Council that, looking to the principle of the bill, it should not be approved of by this honourable House of which I have the honour to be a member. I consider it is our duty not to allow this bill to be passed in its present form.

Mr. S. T. KAMBLI (Dharwar District): Mr. President, I rise to support the first reading of this bill. The Act of 1884 was designed to meet the then aspirations of the people of this Presidency. Nearly 38 years have now elapsed since then without any changes in the constitution or in the working of the local boards, though it is an admitted fact that there have been rapid strides in the progress of the poeple of this Presidency. People, Sir, have been from a very long time, waiting with eager expectations for radical changes in the constitution and working of the local boards. Local boards have long been suffering from a state of utter helplessness in many important respects. Hence this bill comes as a great relief to the people of the rural areas in this Presidency, and I for one welcome it although there are still certain important defects in the bill itself. The prominent features of the bill are the lowering of the franchise, the increase in the elected element, the abolition of the indirect method of voting to the district local boards, the admission of women to the membership of the local boards, the abolition of undesirable distinction between inamdars and other landholders of the Presidency, the constitution of special electorates for the Mahomedan community, the constitution of school and health boards, the power of taxation and an increased measure of power to carry out works by their own agency given to district local boards and the taluka local boards. These may be said to be the prominent features of the new bill.

With regard to the lowering of franchise and the increase in the elected element, I beg to submit to this House that these two changes will be welcomed throughout the Presidency; they will be regarded as a boon by the masses in rural areas; they will give an increased awakening to the masses and make them alive to an increased sense of their rights and responsibilities. They will give new and fresh opportunities to many people who desire to serve their own districts. The abolition of the sex disqualification is a distinct advance and I may say it is well worthy of the achievement of this reformed Council, though I myself am not so very optimistic so far as the district and local areas are concerned about an increased desire on the part of women of this Presidency to be members of taluka and district local boards.

The only thing that I beg to point out in connection with the franchise is that it would have been a better thing if a uniform lowered franchise had been adopted both for taluka and district local boards. The difference between an eight rupee franchise and a thirty-two rupee franchise seems to be a very big one.

With regard to the abolition of inamdars' electorates, it seems to me that it is a right step in the right direction. The liberalisation and the democratisation of these institutions, namely, the taluka and district local boards, demand the abolition of the special privileges now enjoyed by special classes. The privilages enjoyed by the inamdars up till now were so to say given to them by robbing the people of their legitimate rights. Inamdars need not be sorry for losing a right which inherently did not belong to them. By the abolition

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of this special privilege, the only result would be that the lost right of the people would be restored to them.

Coming to special electorates intended for the Mahomedan community, I do say that there seem to be special reasons for the Mahomedans to demand special representation for them. Looking to the present membership of the various taluka and district local boards in the Presidency, of course excluding Sind, the Government is justified in seeing that special protection is given to the Mahomedan community who have no adequate representation at all on the district local boards at present. The only thing I would point out to the House is this, that the proportion of representation to be given to the Mahomedan community should not, in any circumstances, exceed the voting strength of the Mahomedan community, either in taluka local boards or district local boards; otherwise, it might result in a great injustice to the other communities.

With regard to the institution of the two boards, the school board and the health board, I have to point out that the constitution of the school board intended by the bill seems to be a very peculiar one. That there should be a school board, of course is desirable and necessary; but looking to the provisions contained in the bill with regard to the constitution of the school board, it appears to be topsy turvy. The members of the school board are to be elected by the members of the district local board, but the membership is not confined to the members of the district local board; in other words, according to the bill, they are not to be elected from amongst the members of the district local board, but any person outside the district local board may be a candidate for the membership of the school board, and from the provisions of the bill it would seem that the school board would be quite independent of the district local board. Whether it will be independent of, or subordinate to, the district local board, the method of election to the school board seems inherently defective. If the school board is to be a part of the district local board, if it is to be subordinate to the district local board, and if the district local board is to elect members of the school board, it stands to reason that the membership of the school board must be confined to and they must be elected from amongst, the members of the district local board.

Then, Sir, coming to the next question of the increased power proposed to be given to the local boards for carrying out their works, up to this time, according to the present Local Boards Act, the power given to the district local boards to carry out their works was purely an imaginary one. They were simply asked to pass a resolution saying that such and such a road should be repaired, that such and such a road should be metalled, and so on. After the resolution was passed, then the district local board was *functus officio*. If the expenditure exceeded a certain money limit, the whole scheme was to be sent to the Government Department or agency for being carried out, and the way in which the Government Department carried out the works of the district local boards needs no comment. The district local board roads have come to be regarded as roads which ought rather to be avoided instead of being utilised. This is the way in which the works of the district local boards have been carried out by Government agency. There was also great delay in the carrying out of the works. When the board passed a certain resolution, the matter was sent to the Government Department for the preparation of plans and estimates. The Government Department took months after months to do it, and several reminders had to be sent before they got the plans

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and estimates ready. If after that, the district local board disagreed, they had to pass another resolution and transmit it to the Government; again the Government Department took a certain amount of time. In this way the matter went on in correspondence for months and years without the work being taken up in hand. That is the state of affairs under the present District Local Boards Act. By the present bill, certain increased power is sought to be given to the district local boards. But I fail to see why complete power to carry out the works should not be entrusted to the local boards. The municipalities in the mofussil enjoy the power of constructing and carrying out the execution of their own works. They metal and repair their roads, and they also carry out other works involving expenditure of very large sums of money. I fail to see why the district local boards should not be allowed similar power to execute their own works. By the present bill, certain increased powers are sought to be given. Still, I submit that certain restraints are placed, even in the present bill on the power of the local boards. They are still sought to be placed under the tutelage of the Government Departments. Perhaps, it may be urged that the district local boards have not got the proper agency to carry out the works. But up to this time power was not given to them to carry out their own works. If this power is given to them, they will be obliged to entertain and retain an expert staff for the execution of their works. Without giving them the power to say that they are incompetent, or that they are unable to manage their own affairs or to carry out the execution of their own works, is to make an unjustifiable remark. Even in the present bill certain restrictions are placed on the powers of the district local boards. I beg to say that this sort of restriction should not be placed, and that this sort of the curtailment of the powers of the district local boards in the matter of the execution of their works should be put a stop to.

With regard to the representation of the depressed classes, I have to say a few words. Certainly, the depressed classes are entitled to have representation on the taluka and the district local boards, and Government has, for some time past, been showing their anxiety to select suitable representatives and then to nominate them on the local boards wherever they are found. In this bill, there is no special mention made of the representation of the depressed classes. I trust that the matter will receive the attention of the select committee, and I hope that provision will be made for their representation, either by special constituency or by providing a certain number of seats from amongst the nominated members of the taluka and district local boards

With these words, Mr. President, I beg to support the first reading of the bill.

Mr. M. W. PRADHAN (Thana District): Mr. President, I rise to support the first reading of this bill, and in doing so, I must congratulate the Honourable the Minister on the bold step that he has taken in bringing to the doors of the masses in the village the real training for *Swaraj*.

Mr. President, the bill aims at giving wider powers in many respects not only to people who are advanced but to people who are residing in villages.

Now, with regard to the great point which is made about communal representation, I would only urge on this Council to see whether the Honourable the Minister has not taken a proper perspective of the real state in the country. My honourable friend Mr. Gholap gave evidence as to how wise the Minister was in giving communal representation to one-sixth of the whole of the population of the Presidency. I know, Mr. President, that the principle of communal

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representation is bad, but we have to look not to what is bad, but to what is indispensable. Pudding and cakes are no doubt very good food, but congee and whey is the only food that will be relished by a sick man. To him dainty food would be poison. So, in the present state of India, I mean its diversity of classes and races, it would relish only this congee and whey of communal representation. That is their proper food. There is no use ignoring the fact that India is really divided. If it should become united and there is a united cry that there must not be communal representation, then legislation should be undertaken and modified on those lines. What has the Honourable Minister done? He has really taken into consideration the real state of the country, and has provided for communal representation which is absolutely necessary for the prevailing conditions.

My honourable friend Mr. Kambli said that the board must have control over its executive engineers, and I recognise that. But I would only remind the House that this bill is a bold measure and is a very great step in advance. It is indeed a bold experiment on the part of the Honourable Minister to give such wide powers to local bodies. Then it was stated that the district local boards should control their own officers. But there should be a provision in the Act binding on the Government, to lend the services of capable men from the Revenue Department to be appointed chief officers and thus to guide the work of the local boards. As regards powers of taxation, I think Rao Bahadur Chitale said.....

The Honourable the PRESIDENT: You cannot refer to a concluded debate.

Mr. M. W. PRADHAN: I beg your pardon, Sir. With regard to powers of taxation, the improvement of agriculture, industries, sanitation, education, these are all very great powers in advance and do require fresh sources of revenue in the power of local bodies and to my mind it appears that the Council would be committing a great error in not allowing the bill to go to select committee. As regards the statutory provision in the Act making it compulsory on Government to give as chief officers persons from the Revenue Department, as I said above, I think these are matters of detail which can be properly looked into in the select committee. With regard to the whole scope of the bill in spite of communal representation, it is certainly a very great step in advance, and the Council would be committing an error in not allowing it to go to select committee.

Rao Bahadur R. R. KALE (Satara District): Mr. President, before proceeding to discuss one or two salient features of this important measure, I should like to join with the previous speakers in the congratulations they had offered to the Honourable Minister for having brought forward a measure which is intended to extend popular control in our local bodies, and I would add that it would have been better, if he had extended further freedom from outside control.

The first formula that was laid down as essential in the Montagu-Chelmsford report runs as follows:

"There should be as far as possible complete popular control in local bodies and least possible interference in them by outside control."

Reading the provisions of the proposed bill, and after hearing the speech of the honourable mover, I was disappointed to see that so far as the second

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part of this formula is concerned, very little advance has been made in the bill upon the old state of things.

However, before coming to that, I should like to say a few words about the constitution and franchise that have been proposed to be incorporated in the new bill. It is a happy coincidence that this bill synchronises with another bill which the Honourable Minister for Education is bringing forward in this Council, because the subject of primary education is so closely interwoven with the powers and duties of local bodies that it seems to me it is impossible to make any improvement in the one without making at the same time improvement in the other. It is for this reason that both these bills should be carried through with the least possible delay.

Now, Sir, about the constitution of the boards, there are two points which require notice. At this stage I refrain from any discussion of details but in my opinion members of Council ought to give expression to their opinion on certain broad questions, because when the bill is referred to the select committee, that committee should be in a position to know exactly what the views of the different members of this Council are, and what their instructions are in regard to certain provisions that are embodied in the bill. The first point that strikes one in considering the constitution of boards is that of communal representation. I am sorry I am unable to agree either with the mover or with the speakers who have preceded me and who are in favour of communal representation. The history of the question of communal representation is very interesting and the mover of the bill sought to justify the introduction of communal representation in the local bodies on the ground that it has already been recognised in the Legislative Councils. But the circumstances that led to it should be considered before we extend that principle to bodies where it has never existed. The report on Constitutional Reforms (Montagu-Chelmsford Report) has stated in very distinct terms.

"We regard any system of communal electorate is a very serious hindrance to the development of self-governing principle and the evils of any extension are plain."

In the beginning they have laid down the reasons which show these communal electorates constitute a serious hindrance. Other reasons are there based on the teachings of history. The second reason was that it perpetuates class division. We have seen that now: even the member for the depressed classes a few minutes ago put forward his claim for separate representation. Thirdly, they stereotype existing relations, and this is a very important point:

"A minority which is given special representation owing to its weak and backward state is positively encouraged to settle down into a feeling of satisfied security: it is under no inducement to educate and qualify itself to make good the ground it has lost compared to the stronger majority."

Lastly, as I have said—and that is a very important point—in the interests of the community itself it is desirable that that community which is backward should be made to realise that it is by educating itself that it can go forward: it cannot afford to remain backward for ever. But if separate representation is given, it will always be backward and there will be no inducement for it to go forward. Sir, after laying down these principles, and after coming to the conclusion that the system of communal representation is a very serious hindrance to the growth of local self-government, how is it and why is it that the Montford Report and the Franchise Committee's Report and the despatch of the

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Government of India on that report, still maintain the principle of communal representation for the local and Imperial Legislative Councils? The reason is they think that the communities have enjoyed that privilege for years together and they should not be deprived of it. Ever since that principle was introduced in 1909, when the Morley-Minto reforms gave a widened constitution to the Legislative Councils, that principle has been embodied in the constitution of the councils. It was therefore thought that under those circumstances it was inexpedient for the authors of the reformed constitution of Legislative Councils to go back on that principle. If you read the Montford Report carefully you will see that it is with great reluctance that this principle has been allowed to stand. It was allowed to stand, because it had stood there already. If it had not stood there already, I am sure any one who reads between the lines of that report will come to the conclusion that the only proper and logical policy would have been pursued. In these days when we have to reach the goal of full responsible self-government, we must look to the history of these institutions for our copy and we cannot afford to maintain this communal representation. It is something like what our grammarians say: if there is a wrong form there is a justification for its being maintained but there is no justification for creating another wrong form. Now, Sir, if as has been observed by my predecessor, these local boards are a training ground, if they form the lower rung of the ladder which we are to ascend, here it is that we must begin and that beginning must be made on lines which ought to be irrespective of any communal claims:

> "Division by creeds and classes means the creation of political camps organised against each other, and teaches men to think as partisans and not as citizens."

That is also a quotation from the Montford Report. Therefore, my submission to my Mahomedan colleagues is that they should look at this question from this point of view: whether they wish to be trained as citizens or whether they wish to perpetuate this partisan spirit for ever. The leaders of that community should look at the question as the late Justice Badruddin Tyebji looked at it. He said "I am an Indian first and a Mahomedan afterwards." Recently during the discussion of the Municipal Bill in the Behar and Orissa Council two Mahomedan representatives Khan Bahadur Mohiuddin Nur, who has since been appointed president of that Council, and Khan Bahadur Fakirruddin, who is Minister of Excise and Education, these worthy gentlemen resisted the proposal to extend separate communal representation to municipal bodies. I hope their example will be followed by the worthy Minister who is in charge of the bill. I know he is a liberal. I am not prepared to go with the honourable member for Surat and say that he wants to favour a particular community because he happens to be a member of that community. Far from it, I know that that is not at the back of his mind, and cannot be at the back of the mind of any one in that responsible position. But he is perhaps obsessed by the idea that his Mahomedan brethren want this communal representation, and therefore with the desire to give them what they want, he seems to have allowed this principle to be brought into the bill. But I hope and trust that when after discussion in the Council the matter goes before the select committee, he will reconsider his position in the light of facts placed before him, and if he finds that this principle of communal representation ought not to be in this bill, I am sure that he will drop it, because in this very bill when he has extended the franchise, as he said, to women, I must say that he has already set aside sentiment in preference to

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justice and equality. Notwithstanding the feelings and sentiments of the Mahomedans with regard to women, when he was bold enough to support the franchise for women for election to the Legislative Council last year, and this year he has embodied a provision for enfranchising women in the present bill that shows that he has the courage of his conviction. Therefore I have full faith that he will drop this principle if he is convinced as we hope to convince him, that if India has to attain the goal of full responsible self-government, we must start with these rural institutions and exclude the principle of communal representation from their constitution. So far as the experience of my district goes, one Mahomedan councillor in our municipality has been there for nine years and he has been elected all along by Hindu voters. Another instance of a Mahomedan being elected by Hindu voters is the taluka board of Koregaon. A Mahomedan member has been sitting on that board for a long time and he has been elected purely by a Hindu constituency. Only recently the last election was held on the 12th September and it was feared, perhaps owing to this awakening there might be a change—but still he has maintained the ground—and I am glad to say we have seen him on the taluka board. If therefore, Mahomedans when they are fit and available and willing to serve on the local boards, are sent up without difficulty, I am unable to see why we should depart from the usual rule simply to provide for their being set up when as a matter of fact they perhaps in the present state of things may not be quite in a position to sit on these boards. I can understand, Sir, if they have their own separate interest as Mahomedans, then by all means let them have it as in the case of Legislative Councils. But the case of Legislative Councils is different from that of the local bodies. Perhaps in the Legislative Councils you have to pass laws affecting various communities and there you have to consider the religious feelings and other matters in passing enactments and so on; but in local areas, in local boards and municipalities, where you have to concern yourself with local affairs, I must say, unless there is some special interest to be safeguarded, I do not see that these grievances necessitate that community being given a separate representation. I know for instance in matters of education perhaps it may be said that they want separate representation because they are a backward community. But I am glad to see that in this bill and in the Education Bill which will be brought forward we are going to constitute a separate board for education. I have seen throughout my career that the problem of Mahomedan education is somewhat difficult and there Mahomedans might have their own point of view to place before the local body, and therefore I say that so far as the District Local Boards Act which is now sought to be enacted is concerned, the domain of education is to be separate. Education boards are to be separately constituted and consequently we can provide for Mahomedans being represented on these education boards so that they may have no particular reason to complain. Excepting therefore that particular subject, so far as my experience goes, I do not think, Sir, that Mahomedans should have any special reasons for wanting any special safeguard. No doubt where their community is a small community in any particular area they may not have any chance of entering the board, but there are some other communities like the community of my honourable friend Mr. Gholap, namely, the Mahar community. I know that an inamdar Mahar in my district suffers from this grievance and I really sympathise with him because he suffers from the same disabilities as the Mahomedans. Why should his community not therefore be given a separate representation? So I must say, especially when we are going

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to deal with local bodies there will be no end to this question of communal representation if we once introduce it in this connection. These are the fears which I entertain and I do hope and sincerely hope that my Mahomedan friends will give a full thought to this matter as to what will be the state of affairs when there are so many communities in minority in certain areas which stand the need of protection in the same way as the Mahomedans.

Besides, Sir, so far as our Presidency is concerned the relations between Mahomedans and other communities are not, so far as I am aware, of a peculiar nature and in fact most of the Mahomedans by their customs and manners are almost like Hindoos. So far as my knowledge is concerned as regards their domestic life, there is very little difference between that of the Mahomedans and other communities in most areas. Therefore I fail to see, if that is so, how we should be making a mistake in not introducing this communal representation in local bodies. I may be told that they cannot represent their own interests unless they are given this minority representation. But how will they go forward unless they get themselves educated so as to be able to fill places and positions of responsibility? No doubt they do deserve places and positions of responsibility and they will occupy them and they are occupying them wherever there are deserving people available and it is therefore in their own interest I say that they should forego this new claim for separate representation when they have not got it.

There is another aspect of the question. The Montford Report which has preceded the passing of the Government of India Act, has dealt with this question of communal representation in paragraphs 227 to 231. The conclusion to which we are driven from these paragraphs is that the principle of communal representation was applied only where it was already in existence with a great deal of reluctance and out of sheer helplessness. But taking into consideration the fact that the Local Boards Act and the District Municipal Act have been in force since 1884 and when the principle was not there, is it reasonable to ask to introduce it for the first time when we are trying to enlarge the powers of local bodies? I think it would be a fatal step to take. I therefore submit with due regard that all these facts may be considered in the select committee.

With these words, I now proceed to another aspect of the question and that is the question as regards control and the question of representation of inamdars which latter has been considered in the Montford Report and the reasons given for retaining them as a separate constituency are given there. If we have to follow the Montford Report, then why not do it in the case of inamdars in whose case they have representation on the imperial and local legislatures and then why should not you have them represented on the taluka board? But you take away their right to be represented on the taluka boards now, and on what grounds? You say, because we are living in a democratic age; although really speaking there is the distinction between communal representation and special representation. I can understand that argument of special representation in the case of bodies like Chambers of Commerce or such other bodies and I am not against it. As my honourable friend behind has given notice of an amendment of principle, there is enough opportunity for him to argue that point. But what I say is, there may be special interests of holders of entire alienated villages, who own whole villages in some cases, and perhaps special considerations might be applied in their case. But when you have abandoned that principle, even when special representation was in existence

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for the inamdars, it seems most surprising to see that you are creating a new communal representation for a community which has no special interests as such community to be represented on the rural local boards, except perhaps in the matter of education, which matter, as I said, has been left entirely to another body.

Then, Sir, I do not know whether the report of the Local Boards Committee recommended communal representation. I do not think my information is incorrect that that committee does not recommend communal representation. (The Honourable Khan Bahadur Shaikh Ghulam Hussain indicated dissent).

The Honourable Minister seems to think that the committee did recommend it, but I am afraid I cannot verify it as I have not had the advantage of having the committee's report here in the library, although I made enquiries about it. But if my memory is correct, I think it did not recommend communal representation.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The Pratt Committee has recommended it.

Rao Bahadur R. R. KALE: I mean to say the Lawrence Committee has not recommended it, and the Government of Bombay and the Government of India never approved of it.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The Bombay Government has accepted that, Sir, for Sind.

Rao Bahadur R. R. KALE: I am talking about the Presidency proper, Sir, and I know the Bombay Government has not accepted it for the Presidency proper. There is a majority of Mahomedans in certain parts and a minority of Mahomedans in other parts of Sind. These are matters in which, as I say, the Presidency proper ought not to be mixed up. Just as the Sind Local Funds Act is different, I do not know whether Government has accepted it in the case of certain parts of Sind. But, so far as I am able to see, in the rural population of Sind there is a preponderance of Mahomedans. So they do not require any speical representation there. My Hindu brethren, I am sure, will not accept communal representation; they will resist it. Therefore, in rural areas you do not want any separate representation for Mahomedans. So the question relates to the Presidency proper, and I have explained the situation as briefly as I could and I do not wish to take up a longer time over this matter at this stage. Then, as I said, there are other means, which may by all means be applied, if necessary. For instance, you might introduce co-option. The House will remember, when the Bombay Municipal Bill was on the anvil of this Council recently, similar considerations were put forward and one community was blamed for wishing for communal representation. I do not want to go into that matter now, but I only want to point out that the principle of co-option was introduced there and, as a safeguard, we might introduce the same principle in the Local Boards Act as in the case of the Municipal Act, so that there will be sufficient guarantee for this representation. By all means have these safeguards, because they are, after all, things which are ephemeral and will disappear in due course. But once you introduce this communal representation in rural areas, it will be very difficult to dislodge it as it has been found difficult in the higher legislatures. That is the point which I would press on the attention of this Council.

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Now, Sir, I proceed to the second point, and that relates to the control. I find, Sir, on a comparison of the old provisions with the new which relate to the control of these local boards, that the new provisions are not only no improvement upon the old law, but perhaps they are the other way. With regard to this control, Sir, I am fully aware that there must be exceptional powers reserved for Government in case of emergency to deal with local bodies. But, when we have now the subject of local self-government a transferred subject with a Minister at the head of that branch of the administration, why allow the local authorities like the Collector or "any other officer of Government"—these are the words which have been added in the present bill—to have these powers? In the old Act it was only the Collector on the spot who had certain powers. We now find that other officers of Government also have been given powers.....

The Honourable the PRESIDENT: Is it necessary, Rao Bahadur, to go into that question of Government control now? So far as I can see, the general objection seems to be that the power of control given to the Government ought not to be increased but ought to be more limited than it is by the bill. Is it not so?

Rao Bahadur R. R. KALE: Yes; the power given to the local officers of Government.

The Honourable the PRESIDENT: Whatever, it is, whether it is local officers or other officers of Government, the objection is to Government control. Now, if the bill passes the first reading and is referred to the select committee, then even if the select committee keeps it as it is, it will be open to the Council to limit the powers of Government. But if you want to increase the powers of Government officers, now is the time to suggest that. I don't say you ought not to have referred to the matter at all; you have done well in referring to it. But the Council will have the power of limiting the powers of control even if the bill passes the first reading and the select committee sends it back as it is.

Rao Bahadur R. R. KALE: It all depends, Sir, how you look at it. If freedom from control is to be looked at, then.....

The Honourable the PRESIDENT: Will you look at it from the eyes of the Chair as a point of order? The Council will not be precluded from limiting the Government's powers of control at the second reading.

Rao Bahadur R. R. KALE: With that assurance, Sir, from the Chair that this matter is not one of principle and that it will be open both in the select committee and afterwards in this Council to limit the powers.....

The Honourable the PRESIDENT: It is a matter of principle; but I understand your contention is that the powers of Government control should be further limited. I say that it is open to the Council to do that on second reading. Only if you want to enlarge them, now is the time on first reading.

Rao Bahadur R. R. KALE: I want to enlarge the powers of the boards and free them from outside control.

The Honourable the PRESIDENT: That means limiting the Government powers. That is a simple argument.

Rao Bahadur R. R. KALE: So, Sir, I do not wish to take up more time of the Council, and would merely conclude by saying that I intended all my observations for the information of the select committee. So, with these few

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words, I again congratulate no doubt the Honourable Minister, but with this note of disagreement which, I am sorry, I have to sound at the very initial stage.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Sir, I rise to congratulate the Honourable Minister on the bill which he has introduced but my congratulation cannot of course be whole-hearted and I do so with some reserve. Before going into the question of the interests of the constituency which I have the honour to represent here, I shall make a few general remarks on the bill. The Honourable Minister yesterday mentioned that the present bill is an outcome of three official committees.....

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Not official but both official and non-official.

Sardar V. N. MUTALIK: So long as the committees were appointed by Government, they were official committees. The Honourable Minister did not yesterday enlighten us on the point as to what the recommendations made were, what recommendations were thrown out and what recommendations were adopted. This I am speaking only of official committees and enquiries. Coming to the various other unfficial conferences and popular opinions expressed in several conferences, I do not know if the Honourable Minister has taken note of all the recommendations made in framing this bill. So far as I can see from the bill itself, some recommendations of very great importance which were made by the conferences are not included in the bill nor has any reference been made to those recommendations for adopting or refusing them by the Honourable Minister. The recommendations that were made by the conferences were of very vital importance and they deserve in my opinion a full treatment at the hands of the Honourable Minister. Those recommendations now go for ever, because when we launch on this new legislation and accept certain principles on which this bill is framed, I think it will be a long time before we amend this legislation. It would have been much better had the Honourable Minister accepted the amendment made by my honourable friend from Surat and asked for opinions of the local boards and other public bodies in this respect. That has not been done and I only say that we did not do a wise thing in that.

I now go to the point of the constitution of the boards. It is claimed that the constitution is popularised. I cannot certainly agree in that view. Men coming from the districts who know what the actual conditions there are will not say that the constitution is popularised. Under the present Act for the district local boards, persons holding land assessed at Rs. 48 were enfranchised. Now the franchise comes down only to Rs. 32 but the Honourable Minister has not taken the recent change that has taken place in rural areas into consideration, that, owing to the introduction of the record of rights and the division of khatas, on that account, men who enjoyed Rs. 48 fsanchise formerly, are not enjoying the same land on their names in the khata and are not paying the assessment at Rs. 32 at present on account the of introduction of record of rights, because according to the former system persons who were sub-sharers were not recognised and the men in whose names the khatas stood were only recognised as voters. Naturally with the addition of these sub-sharers the number of persons giving Rs. 48 was larger and is cut down. I think a reference to the figures of voters formerly and now will convince any member.

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The franchise now, it is claimed, Sir, is made more wide and more uniform as the Honourable Minister claims, but whether it is made more wide I certainly doubt. Formerly persons having some interest in the moffusil property or profession and staying in the talukas, enjoyed the privilege of vote. Such persons are now disfranchised. The Honourable Minister yesterday told us that persons owning property of some value and enjoying income of certain amount are disfranchised,. I ask have these men no interest in the development of the talukas and districts? When we passed the Bombay Municipal Act, we enfranchised the tenants. They were certainly not tax-payers of the municipality. We enfranchised them because they were interested in the municipal administration and they do enjoy some fruit of the municipal administration, but is it supposed that persons living in rural areas are not affected by the administration of the local board and only persons living in Bombay city are affected by the administration of the local body? If sanitation and roads are to do good, it will equally do good to all people in rural areas, namely, agriculturists and others alike. I do not know what led the Honourable Minister to disfranchise all these persons. In fact in my opinion the vote is now restricted only to agriculturists and agriculturists alone. All other persons are altogether thrown out.....

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Ordinary taxpayers.

Sardar V. N. MUTALIK: Tax-payers would be coming only when the local boards imposed additional taxation on people that is to say the position comes to this, that the persons will be taxed before they can ask for representation and if they receive no representation they will say "no taxation without representation." I do not know what the Honourable Minister will have to say in reply. If the boards are formed, inamdars of this Presidency and all persons who enjoy the franchise for the Council should be included in the franchise for votes on local boards.

Yesterday the Honourable Minister said that municipal representation on local boards was foolish and illogical. I beg to differ from him. The administration of these two bodies is conducted in one area and it is but proper that there should be mutual representation. If the local boards had no representation on municipalities, that should have been provided for.

Next I come to constituencies. Holders of whole alienated villages enjoy special privileges of special constituency on taluka and district local boards. My honourable friend from Dharwar district says that the inamdars came there by robbing ordinary persons of their rights. I do not know what he means, or whether he was at all serious in what he said. The inamdars' constituency never came in the way of the constituencies or representatives of the general public. It is sheer nonsense to say that the inamdars came by robbing the ordinary persons. Sir, the Government has really created a very difficult position for the holders of alienated villages, in taking away their constituency which exists under the present Act. It is urged by the Honourable Minister that there are very few voters in the inamdars' constituencies. I am afraid he did not look to the Land Revenue Report, or ascertain what the actual number of alienated villages is. The number is as large as 2,000 in the Presidency proper. I think about one-tenth of the villages of this Presidency are alienated villages. I do not know what argument there is in saying that such a large number of people should be disenfranchised. Sir, the interest in the Presidency proper

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of the holders of alienated villages is one-tenth. Looking to the revenues which the holders of alienated villages enjoy, I think it is more than a crore of rupees. (Mr. O. Rothfeld : It is a sheer shame.) Those who are not holders of alienated villages may say so, but it is more "shame" to draw fat salaries which you do not deserve. The number of voters in the inamdars' constituencies is certainly higher than what it is represented to be by the Honourable Minister. He says that sometimes there is only one village in a taluka. There may be such cases, but looking to my district, almost every third village is an alienated village. All these persons are now disenfranchised without any sufficient reason whatsoever. Now, Sir, it is alleged that holders of alienated villages will be coming in through the ordinary electorates. But, to my mind, if the wording of the bill is to be correctly interpreted, the holders of entire alienated villages are altogether disenfranchised. It must be recognised that they are not holders of alienated land, and the responsibilities of people holding aliented land and of those holding alienated villages are entirely different. Government have imposed certain restrictions on the holders of alienated villages, but the holders of alienated lands are altogether free from those restrictions and responsibilities. I wish my honourable friend opposite had looked into the question beforehand. The Honourable Minister, coming as he does from Sind, may not know the conditions in the Presidency in this respect and might think in a different way. I know in Sind there are very few alienated villages, it being a province newly settled. The Bombay Government was always against giving special representation to the inamdars. In the tussle that went on for seats in the reformed Councils, it was ultimately the Selborne Committee, which gave a franchise to the inamdars in all parts of the Presidency for the Council. I may here refer to the large number of representations that have been made to the Minister and to Government on this point by inamdars from various districts. This particular interest is in an extreme minority in this House, and I hope that members of this Council will recognise this interest, and I do appeal to their sense of justice and equity in determining this question.

I certainly welcome the direct election to the local boards. It is a great step forward, and the Honourable Minister deserves our congratulations for that. The Honourable Minister has now removed the sex bar. That is a great step forward no doubt, but in the first stage of the experiment, I wish he would reserve special seats for women. (An honourable member : Is it only an experiment ?) It is an experiment ; experiment is a great word which was used by a great man, on a great occasion.

The Honourable the PRESIDENT : May I ask the honourable member to make it quite clear if he wants a special constituency for the inamdars and a special constituency for women, on the same lines as the special constituency created in the bill for Mahomedans ?

Sardar V. N. MUTALIK : I want to urge.....

The Honourable the PRESIDENT : A plain answer to a plain question would be an economy of time and also of energy.

Sardar V. N. MUTALIK : Two questions have been put to me.

The Honourable the PRESIDENT : First of all, you deal with the inamdars.

Sardar V. N. MUTALIK : I do want for the inamdars the old privilege of having a special constituency.

The Honourable the PRESIDENT: You want the principle of communal representation, as it is called, to be extended to the inamdars?

Sardar V. N. MUTALIK: It is not exactly communal representation. It is a special class.

The Honourable the PRESIDENT: It is immaterial whether you call it communal or class. I am asking the question for the purpose of determining the principle, so that hereafter no one may be prejudiced, and I may not be hampered in ruling whether any amendments are in order or not. That is the reason why I invited you and requested you to make your meaning clear, so that I may make up my mind.

Sardar V. N. MUTALIK: I want a special constituency for the inamdars.

The Honourable the PRESIDENT: May I ask whether the inamdars who form a special constituency under the existing law, come in under the general electorate of the non-Mahomedan constituency?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: They do.

The Honourable the PRESIDENT: The Government bench says that they do, and I must take the word of the Government bench, unless there is something quite plain on the face of the bill to assure me that they are wrong. Supposing they are lumped together, united with the general constituency, and brought in on the same level, then I think it will be open to the select committee, and for you at the second reading to say that that union will not do, and it must be divided. Therefore, it will not come under the head of communal representation, but class representation; so that, you have done well in bringing the point to notice, and it will be open to you to move it hereafter. As regards women, however, I do not know how it stands. If you want them as a special constituency they may perhaps also come under the same head.

Sardar V. N. MUTALIK: The case of women stands on the same footing. I want certain seats to be reserved for women.

The Honourable the PRESIDENT: By nomination?

Sardar V. N. MUTALIK: Only by election.

The Honourable the PRESIDENT: That is a matter of detail.

Sardar V. N. MUTALIK: The question of the representation of inamdars can be moved at the second reading.

The Honourable the PRESIDENT: Separate representation, you mean, Yes, I think so.

Sardar V. N. MUTALIK: As regards the relation between the taluka boards and district boards, this bill does not go farther than the existing law. That question has to be definitely solved. The Local Boards Conference urged this point and some papers also were read on this subject. Also the Honourable the Minister has not given any idea about what the relation will be between the public health committees and school board committees on the one hand and the district local boards on the other, and how far the district local board will be able to control them. At present the Government administers the whole Education Department, and the local boards are simply called upon to pay. Whether the district local board will have the control of education has not been settled. That is a great question on which public opinion ought to have been invited.

[Sardar V. N. Mutalik]

Coming to the question of control, I perfectly agree with my honourable friend from Satara that this bill has taken away more of the powers of the district local boards instead of giving them a free hand in their affairs. I have not much to add and I hope the select committee will consider these things.

*After recess.*

The Honourable the PRESIDENT: Order, order.

Mr. B. V. JADHAV: Mr. President, I rise to support the first reading of the bill. It might be strange that three honourable members from Satara one after another have risen to congratulate the Honourable Minister. Satara has been very fortunate in having the visits of the three Honourable Ministers. I offer my congratulations to the Honourable Minister for having introduced the bill, which contains a good many points which mark a great advance. It has widened the franchise. That is a very great step indeeed. It has also made elections to the district local board direct. It has done away with the special seats for the inamdars. I want to say something on this point. The inamdars come from the rural classes, and pay land revenue to Government. I do not see any reason why they should enjoy a separate electorate, and send a special member to the district and taluka local boards. In the district of Satara every third village belongs to an inamdar but it does not mean that there are so many voters for them. The owners of entire villages alone are endowed with the vote and their number is not large even in Satara. This invidious distinction in favour of a small number has now been taken away by the new bill. It is claimed that the inamdars have been enjoying that privilege so long: there is no doubt about that, but in this case prescription does not mean anything. If they have enjoyed the vote for many years it does not follow that they should be allowed to enjoy it till eternity. These days of reform must run their proper course, and I think the inamdars ought not to complain if they are deprived of the vote they enjoyed so long.

The Honourable the Minister has told us that special care will be taken to preserve the interests of the minorities, and that, I think, is a step in the right direction. I am at one with my friend who represents in this Council the depressed classes, and I insist that something ought to be done to secure their representation. The depressed classes are a very strong minority and they are always as a rule neglected. Even nomination does not help them to any appreciable extent. During the last three, four or five years, Government has been making attempts to nominate here and there a member from that class, but such nominations are not always very happy, and in certain cases they are almost failures, and more often no nomination at all from the depressed classes is made. If a class or community want to have their grievances or claims put before a local board, they must have the privilege of choosing their own representatives or spokesmen. Members of other communities, however efficient or philanthropic they may be, will not be so fit to represent these dumb lakhs and millions as people of their own choice from among their own kith and kin will be. Therefore, I say that provision should be made for bringing them in in taluka and district local boards. Nomination will not help them. There have been very few seats reserved for nomination and Government nomination, as I said just now, is not always very happy. Therefore I insist that some provision ought to be made for bringing in the depressed classes also by direct election.

[Mr. B. V. Jadhav]

As to the special electorates provided for the Mahomedans certain objections have been raised. I myself was an advocate of special electorates till 1919, but I had to give that up, and I gave my consent before the Joint Select Committee for reservation of seats, and I think the principle of reservation of seats is very good in certain cases, especially in the case of communities like the Marathas and allied castes, who form the majority among the voters, but I am not quite sure whether that principle of reservation of seats will do equally well in the case of the Mahomedans or in the case of the depressed classes who will always be in a minority in this part of the country. I leave that question to the Mahomedan members of this Council and others to decide. If they want special electorates, I for one shall not resist that. If they want reservation of seats, they are free to have that. I for myself, as I have said, am not going to oppose that thing. I think that the Mahomedans should choose for themselves. Certain special provision ought to be made for their representation. Up to this time they have been in the general electorate for local board elections and the results have not been always fair. Here and there some stray Mahomedans have been elected and certain constituencies have always been held by Mahomedans, as my honourable friend from Satara told us just now. But these are very rare instances, and we have found and we do find many a time that even the best Mahomedans are passed over in favour of Hindus who do not possess even half the ability of their Mahomedan competitors. The reason for this is simple, class or communal interest. So, as I said, if the Mahomedans feel that by communal representation alone they can come in and if they are determined to have it, I for myself will not make any opposition. If they find that they can do with reservation of seats, well they are welcome to that.

As to the removal of the sex bar, much has been said about it, and I need not add anything further. It is a good thing no doubt, and there will be some ladies who will exercise the vote. But I think many many years will pass before a lady is elected to a taluka or district local board, and therefore the removal of the sex bar will remain a dead letter for many years to come. However, the removal is a very good thing indeed, and I congratulate the Honourable Minister on that.

Sir, it is claimed that wider powers have been given to the local boards and some of the sections do show that some wider powers are given. But I think still more powers ought to have been given, and the select committee will have to see to that. I need not say anything further on that point now.

As for the franchise, a man who pays Rs. 8 assessment or cultivates a piece of land paying Rs. 8 assessment to Government has been given the vote for taluka local boards, but in the case of the district local boards the vote is given for Rs. 32 rent or assessment. I think this distinction between the qualifications of voters for the district local boards and taluka local boards is not necessary. If a man is fit to vote for a suitable candidate to the taluka local board, he ought to be held fit enough to vote for the district local board also. The franchise ought to be made as wide as possible and this distinction between the voters for the taluka local boards and district local boards should not exist. I do not think that any special qualification is necessary for choosing a man to represent the agriculturists or cultivators to the district local board, and therefore I submit that the franchise ought to be widened for the district local boards also and it ought to be Rs. 8 as is the case with the taluka local boards.

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Education and sanitation have been placed in the new bill under two separate committees. I do not approve of the constitution of these committees. For the education committee members of the district local board are allowed to elect anybody, even those who are not members of the district local board—outsiders—and the control of their actions does not lie with the district local boards when once they have been elected. They become independent bodies. The district local board is only their banker. They can draw their cheques which are to be cashed by the district local boards. I do not think it is a very desirable thing. The education committee ought to be completely under the district board if the district local board is to provide funds for them. In the constitution of that education committee too there is provision made for three nominated members and these nominated members are not to fill up any deficiency, because the section provides that the election of———

The Honourable the PRESIDENT: Is not this a matter of detail which can be considered in the select committee? I do not think it affects the principle of the bill at all.

Mr. B. V. JADHAV: I do not then want to say anything further on that point. As for the constitution of the district local board, provision is made that all the members ought to be elected directly by the voters, and it is provided that the taluka boards should be subordinate to the district boards. But no provision is made for any taluka board members to be on the district boards. There may be cases in which no member of the taluka board will be on the district board and in that case the district board will not be in a position, when any question of definite policy of a particular taluka board comes in for consideration, to realize why and for what reason that taluka board took the particular action, and therefore I say that it is quite necessary that this constitution of the district boards ought to be such as to provide for at least one member from each taluka board to be on the district board. I think the principle here is defective and some provision ought to be made for that. I will not take the time of the Council any further. I heartily support the first reading of this bill.

Rao Saheb D. P. DESAI (Kaira District): Sir, it is indeed very regrettable that the local boards were not consulted in this matter by the Honourable Minister. The matter affects the interests of the 80 per cent. of the population whom they represent, and in my humble view the Honourable Minister should have given some opportunity to the local boards to have their say, and to say what they think about a measure which concerns them so much. It is indeed, Sir, a case of neglect, a sad case of neglect bordering on insult which was particularly avoided in the case of municipalities and the corporation of Bombay. But, Sir, perhaps there was a skeleton in the cupboard which the Minister wanted to hide till it was found out too late and the Honourable Minister therefore did not think it advisable that he should consult them; he thought perhaps it would be enough if it were brought all of a sudden before this Council without any opinion of the boards to guide us and I am strengthened in holding this view by the provisions of the bill itself and I am still of opinion that it would have been better if the consideration of the bill had been postponed for some time in order to enable the people to form some opinion about it. The bill, in my humble view, is an attempt by the Honourable Minister to graft on to a struggling plant, struggling on a hungry soil, widely differing species, and I think that neither the original plant that is struggling for

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its existence nor the grafted ones will thrive. Both will be starved for want of enough nourishment and the results will be disappointing. He said that the district local boards have been given widely extensive functions and powers and rights and all that. Now just let us examine what powers and rights he has given us over and above those that the old local fund committees possessed under the old Act III of 1869. In that Act the obligatory duties had been laid down in section 4 and they were to ascertain and provide for the requirements of the district with respect to works and undertakings calculated to promote the public health, education and convenience including roads, schools, dispensaries, dharamsalas and wells and other works for improving the water supply, etc. Now what has he to offer in the way of further independence and rights in these matters? Here in the bill before the Council he says in section 50:

"It shall be the duty of local boards so far as the local fund at their disposal will allow, to make adequate provision for their areas, respectively subject to their authority in regard to the following matters."

Now in this bill after 50 years the Minister says "it shall be the duty, etc.". There in the old Act III of 1869 it was left to the district local committees to ascertain these duties for themselves; that is the old committees were to ascertain for themselves and to provide for the needs according to their own requirements and not according to the requirements dictated to them by the bench opposite, that is the Government. Now I come to the extension of the functions. One of the functions of the local boards or the duties of the local boards is to construct works and that is one of the chief works of the local boards I am aware of. Now in the Act of 1869 mileage expenditure when it did not exceed Rs. 500 was allowed to be incurred by the old 1869 committees. Here in this bill he allows only up to Rs. 2,000.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Rs. 2,500.

Rao Saheb D. P. DESAI: That was under the old Act, not in this bill in which it is only Rs. 200. Under the original Act of 1869 it was put down clearly that the works up to Rs. 2,500, that is, engineering works which did not require professional skill and the cost of construction of which came up to Rs. 2,500, were to be constructed by the local committees under that Act. Here by this bill works up to Rs. 2,000 are allowed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The honourable member is making misstatements and prejudicing the House. My honourable friend says that under the old Act or the Act of 1869 the boards were allowed to execute public works to the extent of Rs. 2,500. But he as the president of one of the district boards ought to know that now they are allowed to execute their works up to the extent of Rs. 10,000, in some cases up to Rs. 30,000 and in some up to Rs. 50,000.

Rao Saheb D. P. DESAI: I am talking of the bill that is before the House, and comparing it with an Act passed in 1869.

The Honourable the PRESIDENT: But you are talking of the bill before the House as compared with the existing law.

Rao Saheb D. P. DESAI: No, Sir; not the present but the old Act of 1869. Now as regards the revenue or income of local boards, I may add that the Honourable Minister has not been able to restore to us the Sayar revenue that was allowed under the old Act of 1869. I mean cess on revenues other than the

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land revenue (An honourable member: No, No.) such as Abkari, Forests, Salt, and other revenues. There are two divisions, *viz.*, land revenue and revenues other than land revenue if my interpretation of the word Sayar is correct, and that Sayar revenue had been taken away from local boards. Why? Because the India Government would not allow our Government to have anything to do with a source of revenue over which they had sole claim. But I should think that a popular Minister, and we have no reason to believe that he is not, who is responsible to this House ought to have stuck to and took his position on the old Act and induced his "Reserved" colleagues to do justice to the claims of the local boards as regards this revenue and even fought with the Indian Government if he found it necessary in the interests of the local boards. This he has failed to do. Does he call this an advance? I have shown that independence or freedom has been curtailed and now I can say that by abandoning our claims over Sayar revenue, the Minister has failed to safeguard our legitimate claims over that revenue. And so even the small paltry assignment of revenue that was given by the Government has been taken away. I mean the small amount in lieu of Abkari revenue, that was being given to the boards as a sort of compensation hitherto is taken away. Wherever we go, Sir, in the villages—and I think my predecessors, perhaps the European officers, the Collectors, who were presidents of the district local board, when they went to the villages found the same thing—there is the old complaint that though the cess is being levied to the extent of one anna, they receive little or no benefit for the money they are paying. Now that complaint will still remain if this bill is passed into an Act and perhaps it may be aggravated. The fact is, Sir, instead of removing this grievance the Minister has taken upon himself to foist upon the local boards altogether new functions or retain those which are purely provincial and not of a local body. As, for instance, where was the necessity of entrusting to local boards by legislation registration of births and deaths and vaccination, veterinary charges and such other matters? The patels wanted increased pay and by thrusting the responsibility of registration of births and deaths on local boards the Government wanted the boards to pay the patels for this work. The patels have been doing the work for Government hitherto and why should they not do it henceforth? Now, similarly, where was the necessity of entrusting them with the responsibility of paying for the veterinary hospitals and vaccination work? In England vaccination work is not done by local bodies.

Mr. O. ROTHFELD: No, Sir. It is.

Rao Saheb D. P. DESAI: Well, Sir, my information may be wrong; but, so far as I know, it is done by private gentlemen there and Government impose under certain conditions that duty upon the public at large.

Now I come to the constitution of the school boards. The local boards are held responsible for the carrying out of their educational policy. Now, in a school board municipalities are to be represented. The Government officers are to be there and there will be some women too. In actual operation the boards will be in a hopeless minority; I mean, Sir, the boards on whom the financial responsibility for the school board rests will be in a hopeless minority. Let me give you one concrete instance. In my district, Kaira, there are seven or eight municipalities. About eight members from those municipalities will represent them on the school board. Then three persons will be nominated....

The Honourable Dr. R. P. PARANJPYE: Every municipality will not send one representative.

Rao Saheb D. P. DESAI: But that is left to you. We may have to submit to your decision if you ask each municipality to send one member each and of course we can take no objection. We have to abide by the decisions that may be gainst us. The same as regards the public health committee. Sir, when I read the bill and its chapters on health and taxation, I found that the Honourable Minister had done the whole thing in eighteen minutes—he has not taken eighteen months—because he has kept the whole Act intact and perhaps asked his Secretary to have all the municipal health sections embodied in the new bill, and this bill is now the result (Laughter). Otherwise, if he had consulted the local boards, they would have said that the president of a local board cannot go from house to house and do the sanitary work in so many villages and ask the people whether there is sanitation carried out in every house. He cannot do such scavenging work (Laughter). It is quite impossible, Sir; in the rural areas we have tiny municipalities, we have sanitary committees, and we have village panchayats, both doing municipal work. Then, where was the necessity of thrusting upon the district local boards all the municipal functions of public health? If you felt that sanitation in the villages was neglected and it should be properly looked after, you should have asked, under the Village Panchayat Act, every village to start a village panchayat. If the village was a very small one, you should have asked two or three small villages to combine together and start a village panchayat under the same Act. Supposing nobody came forward to start a village panchayat, you should have asked those villages to have sanitary committees. But we find that the function of the public health work, which naturally belongs to a municipality or a sanitary committee or panchayat and not to a district local board, is forced upon a district local board by this bill. It is quite impracticable. Of course, my honourable friend Rao Bahadur Chitale might say that Gujaratis are backward in local self-government and do not want further advance and rights for local boards. I may just state in reply that we are not idealistic, we prefer to look at such matters from a practical point of view and not from an idealistic view; so I would rather try to see whether this bill would work well in practice. Perhaps the Honourable Minister will say that public health functions are simple ordinary functions which we may not carry out, and so we are not bound by them. But he has stated there in the chapter on public health that the district local board shall appoint a committee on public health. Now, if you have to appoint a committee on public health, then the next step would be to force the public health committee to do its duty and to appoint a public health officer, and thus the demands on the slender funds of the boards will go on increasing from year to year. That is the difficulty; the budget is the difficulty, Sir. The Minister has not come with further money, with further funds, but he asks the local boards to collect more cess and to levy certain taxes. You assign municipal taxes to local boards. The collection of these taxes will cost more than the taxes themselves (Laughter). Why are you introducing say a house tax, or an octroi tax or any other municipal tax in the villages? Take the case of my district. There are 600 villages in the Kaira district. Say 600 men will have to be employed and they would have to be paid well if the work has to be done satisfactorily. How many thousand rupees will be required for these 600 men, I leave it to my honourable colleagues to consider. And when you consider that the octroi, and house tax and some other taxes are

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to be levied in the villages, you cannot of course levy them to that extent to which you would be able to levy them in urban areas. You will thus perceive it is expensive to collect them, and if the Minister is prepared to say that, after all, you can levy only house tax in the village areas, I do grant that, it would be easier to collect it; but what will be the total amount collected? It will be a small amount looking to the value of houses in villages. If we adopt the standard of rate adopted for taxing house property in cities like Bombay there will be practically very little amount collected from the villages; but if you raise the rate in villages the city rates will have to be raised rather two or three times what they are at present. The value of the houses in rural areas may be taken at say Rs. 200, or Rs. 300, and if you levy about a rupee per house in the rural areas, to what extent would you have to levy the tax in cities in justice and fairness to the rural areas?

(The remainder of the honourable member's speech was not audible.)

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, I rise to support the first reading of this bill. The most practical difficulties experienced in working the Act of 1884 have been rectified under this bill. The important provisions of this bill are (1) number of elected members raised from one-half to three-fourths, (2) separate constituencies for Mahomedans, (3) elected presidents, (4) change in the franchise, (5) removal of sex disqualification, (6) creation of school boards, (7) creation of public health committees, (8) power of taxation, (9) power of carrying out works by their own agencies and so on. Many previous speakers have chosen to speak on various points and I would like to make a few remarks on the point of communal representation.

Before the element of electorates was introduced, there was the existence of the Council and the only admission to it was by the back-door, *i.e.*, by nomination. Notwithstanding the fact that Mahomedans, Hindus and Parsis and everybody were represented on this Council by the back-door, *i.e.*, by nomination, the Congress fought out and the element of electorates was introduced in the year 1893 by Lord Cross's bill. I would like to point out to this House that since the introduction of this Lord Cross's bill in 1893 up to the year 1910 till the introduction of the bill of Lord Morley, not a single Mahomedan was returned from any constituency except Sind to the Bombay Legislative Council for eighteen consecutive years. This gives us proof that unless there is communal representation, Mahomedans have very little chance to come in and have their seats in the Legislative Council.

My honourable friend from Satara has pointed out that in the Satara municipality a Mahomedan has been returned by Hindus and Mahomedans jointly for the last nine years, but I would go further and point out that I remember cases in which Mahomedans have been returned for the last so many years in the Ahmedabad municipality and in the recent elections in the Kalupur ward in Ahmedabad, Mahomedans topped the list with four-fifth votes belonging to Hindus (Honourable Members: Hear, hear). Sir, these are very rare instances by which we should not be guided at all. The important communities in power should not debar sister communities which are in a minority from doing their bit in the administration of the district and taluka local boards; they should not arrogate powers to themselves; and if you cast a glance along the Deccan, you will find that always non-Brahmins have complaints against Brahmins and why? Because they have got legitimate grievances against their own brethren, Hindu brothers, and legitimately.

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These Mahomedans must claim separate constituencies, as otherwise there is no chance whatever for them to be returned. As I observed, for eighteen years consecutively not a single Mahomedan was returned to the Bombay Legislative Council. I say minorities must have their own spokesmen. Suppose we have got our case in a court, we do try to choose our own vakil, we do not ask somebody else to appoint a vakil for us. Let these Mahomedans have their own places in various councils and boards and let them have a proper share in the administration of such bodies and the much-talked of unity will be increased thereby instead of decreased. It is argued that the policy of Government is to divide and rule. No, Sir, here I must plainly lay before this House that here the policy of divide and rule is not going to prevail, but on the other hand the unity will be more and more strengthened and we will all unite and work for the common cause, be we Hindus or Mahomedans. My Hindu friends need not be told that the Mahomedans are not less patriotic for their mother-country than themselves.

Sir, may I point out a living example in this very Council that there is greater unity between Mahomedans and Hindus in the case of this very Council ? I have not seen a single occasion which has arisen when my Hindu and Mahomedan brethren have differed on any point because that point was of special interest to either Hindus or to Mahomedans or because only Mahomedan interests were involved or because only Hindu interests were going to be affected. If ever in the case of elections to this Council, there were any occasions on which Hindus and Mahomedans differed, they might have been cases in which the different parties must have made it a personal cause in which their individual interests were concerned.

Sir, I appeal to my Hindu brethren to give up their pressing that there should be no communal representation and to allow this communal representation and I am sure that it will tend to bring greater unity and greater friendship between the two sister communities. My honourable friend from Kaira, Rao Saheb Dadubhai Desai, has referred to the point of taxation. He has stated that the cost of collecting taxes will be much more than the taxes themselves. My honourable friend from Kaira is a practical man and a competent man and I fail to see why he forgets that the talati agency, *i.e.* those who collect revenues for Government and those who have been collecting this local fund cess till now, could not be employed. That would be doing away with the extra cost which he fears would be involved. This is only a question of collection of taxes, but so far as taxes themselves are concerned, I feel they can be as easily collected through the talati agency as they are being collected at present. I have now only a few words to add. The poor cultivators in Gujarat especially have no irrigation works. Gujarat is visited by famine every three or four years, and it would be adding fuel to fire if they were to have more taxation. I wish the Honourable Minister would give some further proposals by which taxation of people already over-burdened with taxes would rather be avoided, proposals which would raise money by way of some taxes from the excise or by a certain memorial from this Government to the Imperial Government to allow them a share of the income tax which is being collected from those ryots. With these remarks I beg to resume my seat.

Rao Bahadur S. D. GARUD (West Khandesh District) : Sir, I may be permitted to congratulate the Honourable Minister on the bill which he has introduced. Though there are shortcomings in the bill, the bill is no doubt a distinct step forward in the right direction. The direct representation of

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the masses in the district and the taluka local boards is no doubt an advance in the right direction. The shortcomings to which I have to refer would, I hope, be sifted in the select committee, and we may arrive at a proper understanding about them all.

The first point to which I would like to allude is the abolition of taluka local boards. We had hopes that now that village panchayats have been formed and are being encouraged in each district, the taluka local boards would be allowed to drop, because, with the constitution of the village panchayats in almost every important village, there would be very little scope for the taluka local boards to act independently. Then, these taluka local boards will have no direct representation on the district local boards, and therefore the influence which they used to have through their representatives on the district local boards will also be lost. They will, therefore, be a sort of unconnected middle link between the village panchayats and the district local board. I therefore submit that the question whether the taluka local boards should be abolished and village panchayats established in almost every important village in the district deserves to be carefully considered. Under the present bill, the district local board will appoint efficient officers in the Engineering Department, the Sanitary Department and the School Board Department, who would be quite capable of looking after the interests of the whole district and of every one of these panchayats. There would therefore be very little scope for the taluka local boards as an independent entity.

The next point that I would like to refer to is the question of communal representation. I feel, Sir, that separate Mahomedan electorates in the Presidency proper will not be found to be workable. In the first place, taking my district as an example, the West Khandesh District, I may say that the Mahomedan population there is less than one-tenth of the whole, and even that one-tenth practically consists of the indigenous population which has made common cause with the other communities, and there are practically no outstanding differences between the Hindu population and the indigenous Mahomedan population. Therefore, the separation of these two communities will not be in the interests of the rural Mahomedan population.

The next point to which I would refer is the one to which the honourable member himself referred. He said there were a hundred and one minor communities. Therefore, I submit if we introduce the principle of separate representation in local self-government institutions, there will practically be no limit to this separate representation, as each one of the communities will be rightly entitled to be separately represented. Practically every caste is a minority as against the remaining whole, and would therefore want separate representation. Then we would have to concede the demand that the depressed classes should have separate representation, or the demand of the Marathas and allied castes, as they are called, for separate representation. In that way, I submit, there would be no end to separate representation. Separate representation creates separate interests where there are none, and vitiates that feeling of solidarity and common interest which is felt by the citizens as a whole in local self-governing institutions. Separate representation, therefore, practically does harm to every community. Where there are qualified men, to whatever community they may belong, they have made their mark in local self-governing institutions, and they have been elected whenever they chose to stand as candidates. Mahomedans have, as we find, been elected on village panchayats, whenever they have offered themselves as candidates. They

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have acted as presidents of large and important municipalities. In the Dhulia municipality, for instance, there are five Mahomedan members; they are all elected, and there have been no difficulties in their election on the one or two occasions when they have stood as candidates. The Dhulia municipality had the honour of having a Mahomedan as president and I do not think there is any special difficulty in the way of Mahomedans being returned in sufficiently large numbers. The honourable member also referred to one fact with which we are all well acquainted in this Council. He said that the Mahomedan members of this Council have never kept harping upon their own separate interests. But what I say is that there are no separate interests, and when there are no separate interests, it is not right to create separate constituencies and destroy that feeling of common citizenship and common interest in questions of local self-government.

Referring to the question of representation on the district local boards, I may say that the taluka local boards under the existing Act have the right of direct representation, and if it is decided to retain the taluka local boards, I do wish that they should have direct representation on the boards to enable them to place their point of view through their representatives before the district local boards. It has always been a great help to district local boards to have representatives of taluka local boards in connection with matters which pertain to their talukas, and with which they have intimate acquaintance. I would also wish that the village panchayats should be given direct representation on the district local boards. The panchayats will be under the district local boards, and it would help the district local boards to have members who have intimate acquaintance with the panchayats on the board itself.

The question of giving women separate seats on the district local boards will, I hope, be considered. I do not know whether it would be possible to form a separate electorate for them, consisting entirely of women, but if that were possible, we would surely bring able women on the boards. I do wish that the select committee would consider this question when they are considering the question of representation on the district local boards.

The next point that I would refer to is the representation of inamdars on the board. I am myself an inamdar, and therefore, of course, partial to that class. They have, from my point of view, strong vested interests in the rural areas. They are not a class who should be neglected. They are keenly interested in the working of the board, because they represent entire alienated villages. They come into contact with a very large section of the rural population. They make a large contribution to the district local board fund for their villages which, perhaps, no such other body in the rural areas makes. They pay the local fund cess even on their waste lands. They have got a substantial interest and make a substantial contribution to the local board fund. Their claims, therefore, must be examined carefully.

Lastly, I come to the question of taxation. The district local board has been given some powers of taxation which they can levy in order to meet their increased expenditure. One of the forms of taxation given to the boards by the present Act is one anna in the rupee of Abkari revenue. In 1873, the Government substituted a contribution in lieu of the cess, and this contribution has never since been revised and the boards have never got the benefit of the increase in the Abkari revenue. I moved a resolution on that subject in the Council, and I do hope the Government will take this opportunity to consider this question carefully again and restore to the boards the source of revenue to

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which they have a legitimate title. There are other sources of revenue which the board can claim. I think as my honourable friend Rao Saheb Desai pointed out one anna of the Sayar revenue including this Abkari revenue may be made over to the district local boards. The forest revenue in some districts seems to be considerable, and since large parts of our Presidency are under forests, it imposes responsibility on the boards, as for instance in carrying out anti-malarial operations, the expenses for which should be defrayed from the revenue which the Government derive from that source. Other revenues such as from salt pans may be given to the boards.

The bill as a whole is a distinct advance and is a move towards the democratisation of the constitution. Some of these changes can be made by the select committee. In the meanwhile I request the Honourable Minister to consider whether he would not give a chance to the district local boards and taluka local boards to consider the bill and place their considered opinion before the select committee before it concludes its labours. I think this step should have been taken before the bill was introduced in the Council for the first reading, but still this course will be appreciated if the opinions of the district and local boards are invited and placed before the select committee before it finishes the consideration of this bill.

Khan Bahadur S. N. BHUTTO (Larkana District): Mr. President, there is no denial that the need of amending the present Act is great: I would go even further and say that it is absolutely necessary, otherwise, it is not possible to run district local boards satisfactorily under the present reforms with a half a century old restricted Act. Of course, the proposed Act is also not sufficiently advanced to meet the wants and requirements, but those alterations and additions could be effected by the select committee. However, I offer the following remarks:—

*Chapter I—Preliminary—clause 1 (2).*—The circumstances and state of general development is not uniform throughout the Presidency. Even in Sind, there are certain districts which are far advanced, while others are backward, nay, even in the same district some divisions and talukas are advanced and some backward. The Act should not, therefore, be extended to the whole of the Presidency at once, but its applications should be gradual. There are still some districts, where, notwithstanding Government endeavours, no non-officials could be secured to serve as presidents of district local boards.

*Chapter II—Constitution of local boards—clause (5) 2.*—Officers of Government are being appointed as *ex-officio* members of a local board under the existing Act, *vide* section 5 (1) (*b*). This clause (2) appears, therefore, to be unnecessary and may be expunged.

*Clause 25 (1) (2).*—Absence without leave of a vice-president for more than 15 days involves loss of his place as vice-president and member of the board. This restriction is very hard for vice-presidents of zamindar class of Sind. Though the same condition exists in the District Municipal Act, yet the municipality cannot be compared to a local board. A municipal district is always a compact area and members meet very often, but in a local board area the members are scattered about and sparse. They therefore cannot meet so often in the local board without much expense and trouble. A vice-president therefore cannot easily obtain leave in such areas as in municipal districts. The term of absence should therefore be extended to one month at least, if not more. Further the president

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may be authorised to grant him leave and the formality of appointing a vice-president for one month may be done away with. The work could easily be done by the president in his absence.

Then coming to the conduct of business of local boards, clause 44 (1) of Chapter III, in view of the financial stringency of local boards, the power of local boards for execution of works should specifically be raised from Rs. 10,000 to Rs. 30,000, and in some cases to Rs. 50,000, as otherwise nearly one-fourth of the cost of the works, *viz.*, 24 per cent. is absorbed by the Public Works Department as their supervision charges, etc. This clause should therefore be modified as follows, that works costing more than Rs. 30,000 should be executed by the Government Executive Engineer.

*Chapter IV (incorporation of local boards: property, powers and duties)—Clause 50 (e).*—The registration of births and deaths should not be made an obligatory duty of local boards. In municipal areas this duty can be performed very easily, but the reverse is the case in local board areas. In rural areas it is often complained of that the registration is incomplete. This work in rural areas is at present carried on by Government, who have got a number of officers to supervise it, and yet the work is incomplete, while a local board has no such staff nor any surplus funds to engage it. The work therefore should continue to be done by Government revenue officials, as before, and the clause inserted in the bill should be removed therefrom.

*Chapter VI—Revenue and Expenditure—Clause 75*—The fishery receipts are credited to district local boards under executive order, *vide* Government Resolution No. 639, dated the 14th July 1865, but no separate provision exists in the Act for control and credit of this item of revenue. However, as the Act is being revised, the bill should be so modified as to secure for the district local boards this source of income.

*Clause 89 (1) (b).*—The limit of Rs. 200 per mile in the case of roads and Rs. 2,000 in the case of other works above which the plans and estimates are required to be reviewed by the Government Executive Engineer should be raised to Rs. 500 and Rs. 10,000 respectively, especially when every district local board is maintaining or trying to maintain an officer with engineering qualifications.

Before proceeding further, I would like to say a few words on communal representation. Communal representation which already exists in municipal districts may improve Mahomedan prospects in the Presidency proper, but at the same time it will give a substantial representation to our Hindu brethren in the province of Sind, where they are in a minority. It is an old tale to repeat that communal representation is a bad principle. At the same time no honest man can deny its necessity, because the community in power and in majority have failed owing to their selfishness to convince the weaker communities that they will have fair treatment. The interests of different communities are equally focussed in local areas as in the Councils though on a smaller scale, and local authorities are capable of being more nasty than one could ever expect of the Councils. It is therefore the duty of the Mahomedans to appeal to their Hindu brethren not to deny them their fair share under the pretence of a principle. The Mahomedans know their own interests and they do not stand in need to be told so.

As for the Government control over the district local boards, the boards are held in tight grips. The Collector of the district has been given too much

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power over the local boards, while the local boards have got absolutely no power to criticise the Collector or any other individual department. Therefore I would suggest that the Collector of the district should have as little to do with local boards as possible, to avoid unnecessary interference from the official class. Power to hear appeals under clause 113 should be vested in first class magistrates only. Powers under sections 125 and 126 should be given to the Commissioner instead of to the Collector. As regards clause 128, no officer who is below the Collector should be invested with powers under this clause. I would further point out that clauses 120 and 122 enable the district local boards to delegate their power.....

The Honourable the PRESIDENT: Now, you are going into the details of the bill. You can only deal with general provisions and principles.

Khan Bahadur S. N. BHUTTO: In that case I will not discuss the clauses in detail. With these remarks I support the first reading of the bill.

The Honourable the PRESIDENT: At this point I think I ought to deal with the notices of amendments to the first reading which have been given. There has been general discussion enough, and before the discussion proceeds further, I will give my rulings with reference to the large number of amendments, notices of which have been given.

Rao Saheb Harilal Desai has given notice of an amendment as regards communal representation to the Mahomedans:

"That the provisions in the bill relating to the creation of Mahomedan and non-Mahomedan constituencies be omitted."

That is a question which is not necessarily one of the main principles affecting the bill and therefore, after the bill passes the first reading, it may be considered and modified in the select committee, and then dealt with as it comes amended from the select committee, or is proposed to be amended, at the second reading. The principle to be borne in mind is this. The Council settles the main principle of the bill at the first reading; and you cannot go beyond that principle, but you can limit the principle in select committee and in the second reading. Now, the general principle of the bill is a general electorate limited however by Mahomedan representation. Now, if the select committee comes to the conclusion that the Mahomedan constituency as a particular constituency ought to be omitted, that will be lumped up with the general electorate, but the general electorate consists of non-Mahomedan constituencies and Mahomedan constituencies. Therefore by either uniting or dividing you neither enlarge nor limit. Therefore the principle I have enunciated both yesterday and today remains. Therefore this question can be dealt with in the select committee and by the Council at the second reading. Therefore I rule this amendment to be out of order for the purpose of the first reading.

Then his next notice of amendment is:

"That the provision in the bill relating to taluka local boards be omitted and provision be made instead for the formation of taluka committees from among the members of the district local boards residing in the talukas."

That also is a question of the internal constitution of the local boards, and therefore it does not affect the main principle, and therefore can be dealt with in the select committee and at the second reading.

Rao Bahadur Ramanbhai has given notice of an amendment as regards the Mahomedan constituency. I have already dealt with it and my ruling applies here.

[The President]

Then he wants clause 5, section 3, and clause 133 to be omitted. They are matters of detail and not of principle and may be dealt with by the select committee and at the second reading.

Rao Bahadur Garud has an amendment as regards the Mahomedan constituency. This has been dealt with by me and the same ruling applies.

Mr. Trivedi has also given notice of an amendment :

"That all reference in the bill regarding separate representation to Mahomedans be dropped."

I have already dealt with that. His next amendment is :

"That the provisions vesting the power of control in the executive government be so modified as to vest that power in a Local Government Board to be elected by this Council with the Member in charge as chairman....."

That also is not a matter affecting the main principle of the bill and can be dealt with in the select committee and at the second reading. Then comes :

"That in the provisions of the bill regarding finances of local boards suitable modifications be made so as to guarantee to local boards a definite share of provincial revenues or definite proportion from these revenues on the total expenditure incurred by the local boards in each of the departments administered by them."

That amendment I rule out of order upon the ground that no recommendation, no proposal, can be made, no section can be embodied, in an Act as regards the revenues, unless there is a recommendation from the Crown. So, it is out of order and I rule it out of order. The next amendment is :

"That provisions in the bill empowering the local boards to increase the local fund cess on land revenue should be dropped and that it should be further provided in the draft bill that the local boards shall have power to levy rates and taxes on Forest and Income Tax."

That, I think, is a matter which may be considered in the select committee and at the second reading. Then :

"That provisions regarding the construction and management of public works in the local board areas should be so modified as to vest full powers in respect thereto in the local board concerned."

That is also a matter for the select committee and the second reading. It does not affect the main principle. I, therefore, rule it out of order.

"That provision regarding disqualification of candidates or members should be restricted to offences involving moral turpitude."

That is also a matter for the select committee and the second reading.

"That the franchise provision should be so altered as to qualify (*a*) all persons who have passed a defined literary test, (*b*) all persons who hold immoveable property of certain value, (*c*) persons who have a certain annual income from whatever source."

This involves a new provision, and unless Mr. Trivedi makes it quite clear I cannot say whether it is in order or not, for the House ought to remember, and I take it from the bill, that the qualification for an electorate, whether Mahomedan or non-Mahomedan, is payment of land revenue or local rates. This is the principle suggested by the bill. If the Council is of opinion that the principle should be enlarged by bringing in other voters with other qualifications, that is enlarging the principle and an amendment would be necessary now. In the absence of any amendment now, this would be foreclosed on the second reading. But if the amendment is carried at this first reading, the bill will have to be withdrawn. As I have pointed out from the passage in May's *Parliamentary Practice* which I read at the last session, you cannot attach new principles to a bill at the second reading and enlarge its principle affirmed at the first reading. Therefore I wish to hear Mr. Trivedi on that point and then I will make up my mind.

Rao Bahadur Kale has also an amendment about communal representation. I have already dealt with that.

[The President]

The principle of co-option which he raises is also a matter for the select committee and not necessarily one of principle, and therefore I rule it out of order.

As to the amendment about the greater independence of district local boards to be secured by restricting the powers of Government officers, this is a matter which can be dealt with in the select committee. It is not a provision for enlarging the powers of Government but of limiting it. Therefore I rule that out of order. So I have dealt with this point. Now the debate will proceed.

Mr. C. M. GANDHI (Surat City): Sir, I desire to move the following amendment of principle :—

"Add the following paragraph (*d*) to sub-clauses (1) and (2) of clause 15 of the bill :

'(*d*) who had passed on or before the date of preparation of the list the vernacular final examination or any other higher educational test.' "

The Honourable the PRESIDENT: The amendment should be in the following form :—

"Leave out the words from the word 'that' to the end of the question (that is, the original motion for the first reading) and add instead the following words :

'That while recognizing the step forward taken in the bill for the purpose of local self-government, this Council thinks that it is unsatisfactory in so far as the sections dealing with the franchise are concerned, and declines therefore to proceed further with it unless the Government add to the bill franchise based on educational test giving the right of election to those who pass, on or before the date of preparation of the list, the vernacular final examination or any other higher educational test.' "

That will be the amendment proposed and the question put will be that the words proposed to be left out in the original question do stand part of the question.

Mr. C. M. GANDHI: Then, Sir, I do not wish to move the amendment.

Dewan Bahadur K. R. GODBOLE (Poona District): Mr. President, as the oldest non-official president of a district local board in this Presidency, it is proper that I should address the Council a few words on the important measure that is before us. The good points in the bill have already been brought forward and the Honourable Minister has been patted on the back for them. It is the weak points that I want to place before the Council. The first weak point is the separate Mahomedan constituency that has been brought in. The Honourable Minister has been sufficiently attacked as regards this point by the previous speakers and especially by my honourable friends Rao Bahadur Kale and Rao Bahadur Garud. I do not wish therefore to take up any further time of the Council in dealing with this defect. The only thing that I wish to place before this Council is that in the Poona district out of the 61 local board members that are elected from the talukas we have got two Mahomedan members already that have come in by election. The proportion of Mahomedans in rural areas is $3\frac{1}{2}$ per cent. of the whole population in the Poona district, and based on that proportion they are entitled to two seats only and these they have got in the rural areas.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Have they come in by election ?

Dewan Bahadur K. R. GODBOLE: Yes. Then in the municipal areas of the district 11 Mahomedans have already come in by election and my honourable friends from Satara and Dhulia have already stated to this Council that the proper number of Mahomedans have been elected by the present machinery in their districts, and I do not see why the Honourable Minister should go out of the way to insert in this bill a principle that is quite out of date and which is calculated to throw back the interests of this Presidency for a number of years. The principle is quite wrong and, if it is extended to Mahomedans, there is not the slightest reason why it should not be extended to Jains and to my friends the members of the backward communities.

Another weak point in regard to the bill has been brought to the notice of the Council by my honourable friend Rao Bahadur Garud, and that is that the bill does not take into account the existing machinery of local boards which includes the taluka local boards. The taluka local boards are the agency through which the district local boards carry out their works and the district local boards control the operations of the taluka local boards, and it is but proper therefore that the taluka local boards should have representatives on the district local board.

Then, the bill does not take into account at all the new local bodies that have come into existence in important villages and these are the village panchayats. In my opinion they are the best form of local self-government, because the village panchayats are entitled to impose taxation in their areas and they are entrusted with the duty of spending the proceeds of this taxation within their own limits. I do not think any institution of local self-government has gone so far in this respect as the village panchayats, and therefore these village panchayats that affect a considerable portion of the rural population ought to be taken into account in the formation of the new local boards of this Presidency. In the Poona district we have got 22 village panchayats already which have been formed, and they control a population of about 66,000 people. The bodies that control the sanitary requirements of such a large section of the rural population ought to find a place in the constitution of the district local boards. The district local board, therefore, should have on it, in addition to the representatives already provided for in the bill, the representatives also of the taluka local boards and of the village panchayats. In time, as pointed out by Rao Bahadur Garud, these village panchayats will develop and the taluka local boards will then become useless bodies. They will have then to go and the system of local self-government will be the district local board and the village panchayats. In my opinion, the Honourable Minister cannot ignore the existence of such important bodies in the bill that is before the Council. We should provide a certain number of seats in the district local board for the village panchayats.

Another weak point that has already been brought to the notice of the Council is the district education committees and the district health committees. My honourable friend Rao Saheb Dadubhai Desai has already pointed out that the sanitary or health committees will not be able to do anything for want of funds and for want of proper machinery to put health schemes into operation in our rural areas. In regard to education committees, they also in my opinion ought to be differently constituted. The district local board provides the funds and the body they have created themselves will go on with the operations in their own district without consulting them. They will start a new school, or will close an existing school, or increase the pay of the masters, without consultation with or the sanction of the district local board.

The Honourable Dr. R. P. PARANJPYE : They will have to go according to the budget.

Dewan Bahadur K. R. GODBOLE : In carrying out the budget they will be free to fix their own figures. It seems to me, Sir, to be a very unwise measure in that direction.

Then again, I might point out that in the Poona district we have ten minor municipalities. All these ten minor municipalities will have to find a place on the school board for their representatives, and, with three nominated members, there will thus be thirteen outsiders and there will be two places only left for the representatives of the district local board. So the number apparently is insufficient and it will have to be increased to 25 or more in the case of certain boards, not in the case of every board but in the case of certain boards.

The principal point however that I want to bring to the notice of this Council is as regards the functions of district local boards—the obligatory duties and the discretionary powers that are given to the district local boards. In my opinion, as regards the discretionary powers, there ought to be a large extension of those powers. The first extension that I would propose would be to authorise district local boards to promote railways and tramways in their areas. There is no developing agency equal to the provision of rapid means of communications and transport for the development of rural areas. That is a point known to all of us and I think the lines on which the Madras Local Boards Act and the Bengal Local Boards Act are drawn up ought to be studied by the Minister and similar provisions made amongst the discretionary duties of the district local boards as regards railways and tramways.

The Honourable Dr. R. P. PARANJPYE : There is a provision in our bill in section 50 (*n*), last clause.

Dewan Bahadur K. R. GODBOLE : Well, that is a very indirect way of putting it. I want that a measure like that, which involves large financial considerations, ought to find a separate place and I think it is imperative that the Honourable Minister, amongst the discretionary powers of the district local boards, should invest them with powers to promote railways and tramways in their areas, either by undertaking their construction themselves or by guaranteeing interest, during the first eight or ten years, during which the railways will not be paying dividends. My honourable friend Rao Saheb Dadubhai Desai tells me that in 1915 there was a special bill drafted by the local Government and apparently the Minister has ignored that bill altogether (Laughter). So, that is a point that I want the Honourable Minister to make a note of and to make due provision for. Authorise the district local boards to promote railways and tramways in their area.

Then, another class of power that I want included among the discretionary powers of the district local boards is the power for the construction of certain works which are calculated to increase the sub-soil water level in our rural areas. My honourable friend Rao Bahadur Chitale will bear me out when I say that these works are extremely important. If you have got a small tank storing water at the head of a nulla, the practical effect of that tank is that the wells along that nulla have their sub-soil water level raised and what were dry wells become irrigation wells. In my opinion the district local boards should have power to construct such works for the development of their rural areas amongst the discretionary powers that are given to those boards.

Then, the third class of works that I would advocate and for which the district local boards should have discretionary powers is the construction of minor

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irrigation works. In this district of Poona, during famine time the Revenue Department have spent a lot of money in constructing a tank at Ranjangaon Ganpati. The famine gangs at work have raised the embankment and the only thing that remains to be done is to close the nulla and convert the work into a useful tank. Why should not the district local board have the power of spending a little more money on this work and bringing it to effective operation ? Let us store water, it will do good to the area below it by increasing the sub-soil level of water in wells and by encouraging a little irrigation on the banks of the nulla. What I would advocate therefore is that amongst the discretionary powers of the district local boards should be the power of constructing these three sets of works—one set is the promotion of tramways and railways ; the second set is the construction of tanks at the head of nullas for increasing the sub-soil level of water in dry wells. (At this stage the Honourable the President withdrew and the Deputy President occupied the chair.) And the third set is the power of constructing small irrigation works for the benefit of the ryots wherever there are suitable sites in their areas. I strongly suggest that the Honourable Minister should take these points into consideration and make the requisite additions to his bill.

As I said, I am not asking him to do anything new, but I want him to follow the lines that have been followed in other Presidencies in this matter. These are the main provisions on which I wanted to speak and I hope the Council will endorse the views that I have placed before it.

Mr. PURSHOTAMDAS THAKURDAS: Mr. Deputy President, the Honourable Minister in charge of the bill has received congratulations, either whole-hearted, or, partly mixed, on the measure he has submitted to the Council. I am afraid I cannot be a party to congratulations of either nature and my first observation to this House would be that I personally feel greatly disappointed at the bill as it is submitted to this Council. My disappointment is not based on the details that govern or concern the management of district local boards or others. My disappointment is principally with one or two chief handicaps that I think the bill carries with it. That disappointment of mine is further increased by the rulings given by the Honourable the President that in moving any amendment to this bill an honourable member has to move that unless a certain subject that the honourable member wishes to get amended is accepted by Government, this bill has to be withdrawn by Government. Knowing, Sir, as you do the anxiety of the Council that the District Local Boards Act, which is more or less now much too old for present days, should undergo changes very soon, the Council can very easily realise what a handicap it is to any member of the Council who differs on any principle underlying the bill to move a single amendment at this first reading. That handicap is the one great handicap which the Council will have perceived to-day as it could not have perceived before now so clearly and perhaps so unmistakably as it has gone home to them this time. (At this stage the Honourable the President resumed the chair.) I was saying, Sir, that my great disappointment on this bill is based principally on one or two important subjects. The first one that I will mention is the distressing subject of communal representation which is introduced in this bill or which is sought to be introduced in this bill—a subject which, as I said at the last session of this Council, I thought we would hear very little of in these days. Belonging as I do to one of the two communities to which this question refers, I fully realise my shortcomings and also my handicaps. I fully realise that I can very plausibly be charged (I am hoping ultimately

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perhaps the honourable member will himself see that that charge will not hold at all) I can very plausibly be charged that I am carried away in what I say hereafter, because I am a Hindu. But I wish to assure the Council that I take my stand against communal representation on the same basis now as I took at the time when the Bombay Municipal Corporation Bill was before this House and when I opposed my honourable Parsi friends when they asked for communal representation in Bombay. This very Council then disposed of communal representation and it will take a good deal to make out any strong case for communal representation, be it for Mahomedans or Jains or any other section. You start and turn down communal representation once and I fail to see how this Council can pass or approve of communal representation on any ground unless it is proved as holding exceptionally good. I was told to-day that if this communal representation was approved of, the Hindus stood to benefit in Sind. That hardly counts with me; whether the Hindus benefit by it, or the Mahomedans, in one part or the other, I am out against it on principle and I do not think I shall take any more time of this House enunciating before them why I strongly disapprove of this communal representation. I feel, Sir, that on that subject the less said the better. I really wonder if the Honourable Minister is prepared to defend communal representation on principle and on technical grounds as Government generally do. I know the grounds on which he has tried to defend communal representation and which he put forward on the first reading of this bill and I shall a little later on deal with one or two of those grounds that have very kindly been communicated to me by kind friends. But before I do that, I would like honourable members of this House to turn to the statement of objects and reasons and just bear with me for a minute when I read some lines by which the Honourable Minister explains clause 6 therein. He says there :—

> As the Muhammadan population in rural areas is small and scattered separate Muhammadan constituencies have been created to secure adequate representation for their interests. The interests of other minorities will be secured by nomination.

May I ask the Honourable Minister, Sir,—I really wonder if the Honourable Minister has made it clear when he moved the first reading—may I ask him, Sir, what happens where Hindus happen to be in a minority ? The statement of objects and reasons as presented does not make that quite clear. May I ask the Honourable Minister to explain that, or is it to be left to be understood, to be construed .....

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: If Hindus happen to be in a minority .....

The Honourable the PRESIDENT: Order, order. Unless the honourable member gives way, the Honourable Minister cannot interrupt him.

Mr. PURSHOTAMDAS THAKURDAS: I will give way, Sir, if the Honourable Minister cares to reply. If he makes an attempt to rise, I shall give way for the time being as I have asked him a question.

The Honourable the PRESIDENT: It is only when you resume your seat that the Honourable Minister can rise to interrupt.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: It is very clear, in the body of the bill as well as in the statement of objects and

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and reasons. If one community is in the majority, the Mahomedans for instance, the Hindus automatically get it.

Honourable MEMBERS: How ?

Mr. PURSHOTAMDAS THAKURDAS: The statement of objects and reasons .....

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: If you refer to section 6 in the body of the bill, you will see that there are two constituencies, Mahomedan and non-Mahomedan.

Mr. PURSHOTAMDAS THAKURDAS: I have read section 6; I have also read the statement of objects and reasons. It says "As the Mahomedan population in rural areas is small." It does not say "If the Hindu or the Mahomedan population be small, special constituencies will be given."

The Honourable the PRESIDENT: May I just interfere ? The honourable member should not go upon the statement of objects and reasons alone. If he will address himself to clause 6, dealt with in the statement, he will see that the general constituency is divided into two, namely, Mahomedan and non-Mahomedan, which means the two are there, and it applies to both. The interpretation is right. Upon that basis you may deal with it.

Mr. PURSHOTAMDAS THAKURDAS: The Honourable Minister should be grateful to you, Sir, for having put it so clearly. The statement of objects and reasons does not say that wherever the Mahomedans or the Hindus are in the minority, special electorates would be given to them. But I will refer to another clause which complicates matters still further; clause 133 (*a*) says:

"The Government may by notification in the *Bombay Government Gazette* from time to time make rules, or orders, consistent with this Act:

(*a*) prescribing the number of members of each local board, the proportion of the elective and nominated members for each local board and the number of members to be elected by each constituency;"

Even there it is not stated on what basis it is to be done. The difficulty therefore is further increased. I was pointing out, as far as clause 6 is concerned, that it is not at all clearly made out that there is as much solicitude for the Hindu minority as for the Mahomedan minority. It may be an oversight, and I take it from the Honourable Minister that it is an oversight. I only want to point out that the statement of objects and reasons as it is gives no explanation.

Further, Sir, the statement of objects and reasons says that the interests of other minorities would be secured by nomination. I would have very much liked to hear if the Honourable the Minister had given any reasons for this—if he has already given any reasons I beg his pardon; I was not here—as to why he differentiates between other minorities and the minorities of Hindus or Mahomedans in particular in any district. I am quite aware that in trying to justify this question of communal representation, the Honourable Minister said that there were precedents for it in the United Provinces and the Punjab. I would like to ask whether in the United Provinces and the Punjab there are also other minorities that have to be provided for, and if so what those minorities are, and whether they are sub-sections of Hindus or Mahomedans, and, further, how they are provided for. Is it by nomination ? Are those Governments as inconsistent as this Government now proposes to be ? Have those Governments enacted that for Hindus and Mahomedans there shall be separate treatment, but as regards other minorities, they may, as was said by

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some honourable member, go abegging for nomination ? I therefore contend, with all the deference due to the Honourable Minister, that, at best, he is inconsistent in this bill, and, according to my humble opinion, he has introduced in the Reformed Council the element of representation by communities, an element which I felt I should hear the least of in the Reformed Council. I am quite aware that many of my honourable colleagues the Mahomedan members sitting in this Council owe their seats in this Council probably to communal representation. But that is not a thing to which this Council was a party. That is a thing that was done above the heads of any Indian legislature and the Indian legislature had nothing to do but to accept it. I may be wrong. It is quite possible that there is room for absolutely honest and genuine difference of opinion, but I think that I would be quite justified, according to my lights, in saying that I feel greatly disappointed that the Honourable Minister for Local Self-Government should be a party to the introduction of anything of a communal nature, and should have compelled a person like myself to make any remarks against it, remarks which pain me immensely.

I may be asked, and I was asked by some honourable members with whom I was discussing this question, What is the remedy ? I say, if the Government recognises minorities, and they have made up their mind to look after them, nobody can say nay to it. But let them recognise all minorities alike ; let them not differentiate between minorities because they happen to be differing in religion. Let them look after the Parsi, the Jain, the Hindu, the Maratha and the depressed classes minorities—I do not know how many others there are—on a common basis. If it holds good, let us not have differential treatment for Hindus and Mahomedans alone ; let us have it for all sections, and it doesn't matter ; let us be divided into a hundred parties and a hundred compartments. But let Government be consistent. As it is, it is one thing for one community and for the rest ! They can all go into the common pot. That is not a practical and consistent solution.

I would suggest nomination. Somebody said that he had an abhorrence to nomination, and he did not want to go abegging for nomination. I do not think nomination is secured by going abegging for it. People may think otherwise if it pleases them. If not nomination, I think you have the other alternative co-option. In regard to the Bombay Municipal Corporation, in spite of the Honourable the Minister, this House increased the number of co-opted members from 4 to 10. I see the Honourable Minister smiling, and he may tell me that the standard of intelligence in the mofussil is not what it is in Bombay—very flattering for Bombay. But I say the standard of intelligence in the mofussil will be the same whether you take it by election, or nomination, or co-option. If general election is not preferred, you may have nomination; if nomination is not acceptable you may have co-option. But if nothing is acceptable, and the only thing acceptable is what some gentlemen outside described as differentiating between the two communities, let this Council accept it at their own risk. The nomination provided for in the bill is 25 per cent. You can put that up to 35 per cent. or you can say that at least 50 per cent. of the nominations shall be given on the recommendation of the elected members to representatives of the minorities that are not represented. What I submit is that, if this House, led by the Honourable Minister in charge, do want to get over this nasty business of communal representation, they can do so. I see some honourable members smiling. Probably they think that what I say is absurd. Perhaps I have not as much experience as they have. It

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makes no difference. All that I submit and contend is that this Council will have, sooner or later, to get over this communal differentiation, and the sooner they do it, the sooner they stop starting a precedent as this one, the better for all concerned. I would very much like to hear from the Honourable Minister, when he gets up to reply, of the conditions which prevail in the United Provinces and the Punjab. He has told this Council that there are precedents for communal representation for Hindus and Mahomedans there. So far as I am aware, in the Punjab there are no more than two sections. (A voice 'Sikhs'). I am afraid I do not know much about Sikhs; but there are only two broad sections, Hindus and Mahomedans. Any way in Bombay you have got to deal with more than three; you have got to deal with six at least. The Honourable Minister must take courage in both his hands and go the whole hog and show that there is consistency and logic in the Government proposals.

Section 133 (*a*) of the bill leaves it to Government to prescribe the number of members of each local board and the proportion of the elected and nominated members, and the number of members to be elected by each constituency. There are two constituencies, Hindu and Mahomedan, and it leaves it to the discretion of Government to decide the number of members to be elected by each constituency. I feel that Government are undertaking a great responsibility, for, after all, local bodies are always likely to be, unless this experiment of reformed Councils undergoes a change for the worse, in the hands of an Honourable Minister, and although I am sure one day or the other my Parsi colleagues here may have from among them a Minister in charge of local bodies, it will be more often than not in the hands of a Hindu or Mahomedan Minister; and unless some basis is fixed by legislation as to how these seats are to be divided between the proposed two constituencies, I am afraid members who may have to criticise the Honourable Minister in charge at that time will have to do that with a certain amount of apology. I do not think the Honourable Minister wants to put the Council in that position. To submit a bill like this for the first reading without making this point clear points to a defect in the bill.

It was stated that all these things could be looked into in the select committee. We have had a very bitter experience of select committees that dealt with some of the bills, and I was myself a member of the select committee appointed to deal with the Bombay City Municipal Bill. The passage of the Bombay City Municipal Bill is still fresh in our minds. Now, Sir, you have ruled that if any motion to extend the principle of the bill is passed by the Council the bill will have to be withdrawn. That ruling of yours, as I am sure it is quite correct, I am not at all criticising. I am pointing out what handicaps such measures are to the Council when they are put forward by the Honourable Minister in charge without consultation with anybody—there is the grandfather of the Council, Dewan Bahadur Godbole, the oldest president of a local board, there is my honourable friend from Dhulia, my honourable friend from Ahmednagar, Rao Bahadur Chitale, stalwarts who have worked so hard as presidents of district local boards. I have not heard from any of them that district local boards were consulted. I put it to you.....

The Honourable the PRESIDENT: My ruling is based on this.....

Mr. PURSHOTAMDAS THAKURDAS: I bow to your ruling. I am only pointing out how in view of the ruling bills like this put before the House are a handicap to them. I was going to say that persons like Dewan Bahadur

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Godbole, Rao Bahadur Chitale, Rao Bahadur Kale and Rao Bahadur Garud, who have taken a prominent part in the management of district local boards till now, have not been consulted. When each one is feeling that something is wanting.....

The Honourable the PRESIDENT: May I just make myself more clear? My ruling is based on what is stated in May's "Parliamentary Practice":—

> "It is also competent to a member who desires to place on record any special reasons for not agreeing to the second reading of the bill to move an amendment to the question, a resolution declaratory of some principle adverse to or differing from the principles, policy or provisions of the bill."

That applies to the first reading here according to our Standing Orders.

Mr. PURSHOTAMDAS THAKURDAS: I bow to the ruling. I am pointing out how confused are laymen like myself who do not know either much of law or of the working of the district local boards, when they differ on an important principle.....

The Honourable the PRESIDENT: An amendment of the principle of the bill to be in order should not be a mere negative of the bill. It should propose some alternative principle. In that case, as May points out, if the amendment is carried, the principle of the bill falls through and with it the bill.

Mr. PURSHOTAMDAS THAKURDAS: I was saying how confused I feel in voting for the first reading of the bill.

The Honourable the PRESIDENT: I do not see any confusion. If you attach so much importance to your principle, whatever the other merits are, you must say to the Honourable Minister "Bring another bill on the lines of the principle I contend for."

Mr. PURSHOTAMDAS THAKURDAS: You have ruled that such amendments can be moved at the second reading and given every latitude to discuss them. I was just going to say that everybody who has been in this House knows how difficult it is to overthrow a select committee report once it is made. The privilege of nomination of members to the select committe is with the Honourable Minister (An Honourable member: No, no). Will you just wait a minute please? The Honourable Minister will get up and propose some 15 names; the House will add two or three more. You will suggest, Sir, that that makes the select committee unwieldy. Then 15 and 3, 18 members will make the report. As it happened in the Bombay City Municipal Bill, some one like myself will be in a minority. The select committee report comes before the Council. You know how difficult it is to dislodge a position like that. I appeal to the Honourable Minister whether it is fair to this Council in view of the criticisms he has heard, to push on the first reading, when notice of a series of amendments is given, which you read out, Sir, by mofussil members who are anxious to see that the old District Local Boards Act is amended, and will not wait for a minute more than it will be absolutely necessary. I am trying to put before the Council what will happen after the select committee report. The members of the select committee.....

The Honourable the PRESIDENT: It is open to the Council to reject any name.

Mr. PURSHOTAMDAS THAKURDAS: Has it ever happened Sir? One member has never been discourteous to another. Even my esteemed friend Dr. Dadachanji will not challenge my name, though he may not like it at heart, if my name is suggested to a committee. Therefore, Sir, the practical difficulties are so many that I do not think the Honourable the Minister should push on with this bill, knowing how the Council is practically in a most difficult position, and knowing also that outside the Council some may call it "tactics" to get through the bill—I do not call it so, and I do not think it is, but it may be called so.

Sir, there is one thing more before I resume my seat. I see that in the qualifications for voters clauses (2) and (3) of section 10 of the existing Act have been absolutely omitted. Clause (2) says:

> "persons who own immoveable property.....not less than five thousand rupees in value,"

and clause (3) says:

> "persons residing within the taluka whose annual net earnings from any occupation are estimated to be not less than five hundred rupees,—"

estimated by the Collector, of course. I should have thought, Sir, that persons with an annual income of five hundred rupees or owning landed property to be valued by the Collector at five thousand rupees would be looked upon by the Honourable Minister as persons with a stake and responsibility in the district.

The Honourable Sir CHIMANLAL H. SETALVAD: Persons holding land of the value of Rs. 5,000 will be paying Rs. 8 assessment.

Mr. PURSHOTAMDAS THAKURDAS: The Honourable the General Member has not cared to look at the old Act.

It is not "landed" property. The section is

> "persons who own immoveable property within the taluka, other than a holding described in clause (1)..... estimated by the Collector to be not less than five thousand rupees in value."

It may mean a bungalow or a house.

The Honourable Sir CHIMANLAL H. SETALVAD: They will pay house-tax then.

Mr. PURSHOTAMDAS THAKURDAS: Not necessarily. The Council realizes that the Honourable Minister tries to impose at one stroke a basis of absolute uniformity—it may be payment of Rs. 8 or Rs. 32 per annum. When we hear so often from Government benches that the material one gets for district local boards from the mofussil is rather poor, it is illogical to throw away on the excuse of consistency material like this, namely, people owning immoveable property of not less than five thousand rupees in value, and persons whose annual net earnings from any occupation are estimated to be not less than five hundred rupees.....

The Honourable Dr. R. P. PARANJPYE: Five hundred rupees annual income is not much.

Mr. PURSHOTAMDAS THAKURDAS: That is quite enough for the mofussil, Mr. Paranjpye. I should have thought that these were the people who would be looked upon as having a stake and responsibility in the district. Sir, that is a change from the present Act which requires to be justified on grounds other than those of uniformity. We do not want uniformity at the expense of the franchise of people like those provided for under the old Act. I feel, Sir, that a step like this should be substantially justified by the Honourable Minister. I would have moved an amendment but for the ruling

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which you have so very kindly given to the Council, but which puts us absolutely out of court at present for moving an amendment of this kind. The difficulty is this. I wish to move an amendment that these sections of the old Act be embodied in the present bill. That is broadening the basis and you will not admit this after the first reading. I therefore venture to ask the Honourable Minister why he has omitted these important sections of people whose claims rest not on the basis of communal or any other ground, but on the basis of a common qualification. The difficulty of the House is this. Some members of the House want, my honourable friend from Surat wants, to broaden the basis on certain grounds and I would like to have it broadened on the ground, I have just mentioned. It may appeal to the House or it may not appeal to the House, but the amendments cannot be discussed by the House for this reason, that the House will not pass the amendment lest the whole bill may have to be withdrawn. Now, I wish to ask the Honourable Minister whether he has consulted persons with practical experience before he made these omissions, omissions of clauses which were in the old Act and which seem to have acted very well so far.

I feel, Sir, that I have taken up too much time of the Council. I have talked very frankly, but I feel that at a juncture like this, when such an important measure has been placed by the Honourable Minister before the House, I should not mince matters or keep back anything which I like to say to this House. On such an important bill like this, with 136 clauses, one would have liked to offer the thanks of the Council to the Honourable Minister in charge for having put it before the Council, but my only handicap is that I disagree with one or two material points only and regarding others I think that the Council wants to know the grounds which have justified the Honourable Minister in cutting out certain privileges that have been enjoyed by certain sects of people irrespective of any differences of race or religion.

Mr. O. ROTHFELD : Sir, I shall not commence by reiterating the congratulations given by various members to the Honourable Minister. I think the bill as it stands is an ample testimony to the trouble and care that he has taken. But I would like to begin by congratulating the last speaker on the excellently delivered, extremely witty and very eloquent speech that he delivered. I can only regret that I cannot and I trust that the majority of this House cannot agree with the matter of his speech. (Honourable Members : 'No, no'). Sir, I find myself in regard to this bill in the very unfortunate position of having to differ from several gentlemen with whom I am constantly associated in public work and whose services in those directions I fully appreciate. Most of all I regret that on this subject of all subjects I have to differ so strongly from the honourable member for Kaira. The honourable member for Kaira comes here as the representative not merely of a rural constituency, but the representative of a rich district where the people are distinctly above the average in intelligence and where they have very likely a desire to extend their own independence in the management of their own affairs. The honourable member in addition to being a representative of that district also had at the last session of this Council moved a resolution—interesting indeed in certain respects —to secure that further capital should come to the districts from Bombay, and in particular into the co-operative movement in which, I am thankful to say, he is keenly interested. Well, here, you have a bill which first of all provides for very much more than has ever been offered, namely, independence

[Mr. O. Rothfeld]

in the districts and the power to the district local boards to manage their own affairs. But the honourable member for Kaira rejects it and says he does not want the management because he does not want to raise money by taxing people. Secondly, in this bill we have provisions dealing with co-operative institutions. Now, there are one crore and twenty-four lakhs of rupees per year which constitute the revenue of the boards, and I do not know if the honourable member treats one crore and twenty-four lakhs as being a very small sum not worth considering. If he does so, I regret I cannot take the same view. I wish I could have for the co-operative movement one crore and twenty-four lakhs from the Government treasury. I think that is a most important provision in the Act and I request the honourable member to consider it. (The honourable member at this point was inaudible). It is so late that I do not think it would be right at this moment to go into the other questions raised by the honourable member in regard to provincial taxation and local funds. At a previous meeting of this House I had occasion once to refer to the idea that seemed to prevail among some honourable members that Government had a huge box constantly refilled out of which to draw money and apparently the honourable member still seems to have that idea. The honourable member for Kaira, I think, seems to believe that provincial funds go on without actual taxation. But he must know that Government have not got unaccountable treasures to draw from. The proposition in this bill is simply that the person who pays shall have the management, while the proposition of the honourable member is that the board should be given no hand in the management and that the funds should be collected and applied by Government officers.

Now as regards communal representation, honourable members must be aware that there are two large communities in this Presidency, one the Mahomedans and the other Hindus. But the honourable member, Mr. Gholap, has also suggested that this Act should provide for the representation of the untouchables, namely, the *Asparsha* communities. But there is this danger at the back of that suggestion. I do not think that the *Asparsha* class should remain untouchable for ever, and that it should retain its *Asparshatva* for all time to come. The honourable member's proposal will make it so by stereotyping the distinction in the whole of British India. The last speaker tried to confuse the question of the representation of these minorities with that of the two great religious communities and to confuse the issues before the House. The honourable member for Satara, Rao Bahadur Kale, referred to the Hindus of Sind. He said that there should not be religious differences, but I would ask him if he knows the conditions of Sind, and, as he knows, the meaning of the Sanskrit word "*Sandhi*" is joining together. (At this stage the honourable member had some conversation on the word "*Sandhi*" and the meaning of the word "*Sadgun*" with Rao Bahadur Kale and other honourable members).

The Honourable the PRESIDENT: Will the honourable member go on with his speech?

Mr. O. ROTHFELD: I was dealing with the question of Hindus in Sind. They amount to 875,000 of the total population and they constitute more than a quarter of the population of Sind.

Rao Bahadur R. R. KALE: I do not think the honourable member has caught my point.

Mr. O. ROTHFELD: You said that they do not want separate representation. The Hindu cultivators in Sind—my Mahomedan friends, will excuse my saying so—are the persons whom we must look to for agricultural progress in Sind. They are persons who would certainly want to be represented, not beyond their numbers, but in the right proportion, on the local boards. I think the honourable member from Sukkur will probably be able to support me when I state that I believe that in the last ten years there have probably been not more than two or three rural Hindus who have been elected or nominated on the local boards in Sind.

Mr. B. G. PAHALAJANI: Correct for election but not by nomination.

Mr. O. ROTHFELD: Very well. Now I ask whether this is a state of things which should be allowed to go on. You have to take into consideration the actual facts. Unless you do that, you will not arrive at the right conclusion. What the Honourable Minister has proposed is that the two communities should vote for each section separately. I for one see no objection to that. I need not go into the question of Mahomedans in the other parts of this Presidency, because the question has been amply discussed for many years. It is a question in which persons are guided by their individual bias. Everyone is entitled to his own opinion on these questions. Personally I think there is nothing wrong in the proposal of Government as it affects the Presidency. But I want to emphasize this point of Sind, especially, because that has not been a matter of so much discussion. With these remarks I will conclude by saying that I hope this House will support the first reading of the bill, which, although it may not satisfy all classes and although everyone may not be able to see it through the Honourable Minister's eye, does represent a very substantial progress in the most important province of Government's administration, namely, local self-government.

The Honourable the PRESIDENT: I think it is 7 o'clock, but before we adjourn, I would say, with regard to the speeches which have been made and which I have been following very closely for the purpose of seeing whether I can easily find out a way to smooth the situation and satisfy all parties, that I find that there is some way out of the difficulty, and that with regard to my ruling especially on the question of franchise, to which the honourable member from Bombay Mr. Purshotamdas Thakurdas referred, there is a way out of the difficulty. I have just now been looking into the authorities and I find it is this. This bill is not a new bill in point of its principle. The title of the bill says "A bill to consolidate and amend the law relating to local boards". I understand that under the existing law the educational qualification exists.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: No, Sir.

The Honourable the PRESIDENT: Very well.

Mr. C. M. GANDHI: Pensioners also.

The Honourable the PRESIDENT: Honourable members will resume the debate on Monday and I put this point before them for their consideration. I have found a ruling of the Speaker in the House of Commons laying down that you cannot, at the third reading (which is equivalent to our second reading), propose any new principle or amendments affecting a principle which would extend the franchise and not modify it, that you cannot add a new franchise or establish an entirely new principle for which leave had not been given by the

[The President]

House or which had not obtained the sanction of that House at the second reading, *i.e.*, our first reading. Therefore, if anybody who enjoyed the franchise under the existing law has been deprived of it by the bill, then I think it would be open to the select committee to consider the question and for honourable members to move amendments on the second reading on that point. As regards the education qualificatiom, whether it exists or not, in the existing law, I cannot say anything now and it may depend upon other circumstances. But honourable members will consider these points and I will give my ruling aud see whether the situation cannot be eased. As regards communal representation, whether it ought to remain in the bill or whether it ought to be omitted, and whether, if it is to remain, it can be extended, as for instance in the case of the depressed classes, these are matters considered as matters of details in the select committee and at the second reading and amendments can be there moved. The only question now is confined to the extensiou of the franchise, but even as to that, I think we can find out a way. Whether it is a modification or an extension, we have to consider and I shall be quite prepared to yield to Mr. Gandhi's suggestion about the education qualification if he will satisfy me that it is not an entirely new principle and it will not add very largely to the electors under the existing bill.

Mr. C. M. GANDHI: I am told, Sir, that graduates have a vote under the existing Act.

Mr. B. G. PAHALAJANI: Under the rules framed under the Act.

The Honourable the PRESIDENT: Is it under the law?

Mr. B. G. PAHALAJANI: Under the rules made by the Governor in Council under section 69.

The Honourable the PRESIDENT: Well, I decline to give any final ruling. (At this stage there was a little confusion in the Council.) I hope honourable members will show respect to the Chair. It is a very intricate point and I think the Chair ought to be, in these circumstances, helped. It will be open to honourable members to raise the point on Monday and, after hearing the speeches, as I have said, I shall try and make up my mind whether the situation cannot be eased. The point is this; whether the educational test exists and, if it does, then, whether they have enjoyed it under the rules or the Act. The principle has been affirmed by the legislature and now this bill proposes to do away with it by an amendment. Therefore, it will not be an entirely new principle as it was in the case of women. Women never enjoyed it and the Speaker said "I am not going to allow this to be brought in at the third reading when the matter was not referred to at the second reading". I do not give my final ruling to-day. I am merely making these suggestions to the honourable members for their consideration and, I will give my ruling on Monday. That ought to satisfy everybody and make the passage, both of the supporters and of the opponents of the bill, smoother.

The Council is adjourned to 2 p.m. on Monday, the 25th September 1922.

*Monday, the 25th September 1922.*

The Council re-assembled at the Council Hall, Poona, on Monday, the 25th September 1922, at 2 p. m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BEDREKAR, Khan Bahadur I. M.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar, M. A.
BOLE, Mr. S. K.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
CLAYTON, Mr. F.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA.
DWARKADAS, Mr. KANJI.
FERNANDES, Major C.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL.
GODBOLE, Dewan Bahadur K. R.
GRIFFITH, Mr. F. C.
GULAMHUSEN, Mr. SULTANALI SALEMANJI.
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HAJI KHAMISO GUL MAHOMED, Mr.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA.
HAVELIVALA, Mr. M. A.

HAYWARD, The Hon'ble Mr. M. H. W.
HOOD, Mr. A. J. F.
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA.
ISRAN, Khan Saheb G. A
JADHAV, Mr. B. V.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
KASSIM, Mr. G. H.
KER, Mr. J. C.
LAHORI, Khan Bahadur HAJI AMIRALI
LALBHAI AMBARAM, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LORY, Mr. F. B. P.
MANSURI, Khan Saheb A. M.
MEAD, Mr. P. J.
MODI, Sardar DAVAR T. K.
MOHIDINKHAN, Khan Saheb HAJI HAZRATH KHAN.
MOHOMED SALAHUDDIN K., Mr.
MONIE, Mr. P. W.
MOUNTFORD, Mr. L. J.
MUTALIK, Sardar V. N.
NELSON, Mr. F.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PAINTER, Mr. H. L.
PARANJPYE, The Hon'ble Dr. R. P.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SAYED NABI BAKSH SHAH.
SETALVAD, The Hon'ble Sir CHIMANLAL H.
SHIRRAS, Mr. G. FINDLAY.

SINDORE, Mr. H. N.
SURVE, Mr. A. N.
THAKOR of AMOD, Sardar NAHARSINGHJI.
THAKURDAS, Mr. PURSHOTAMDAS.
THOMAS, Mr. G. A.
TRIVEDI, Mr. G. B.
VICHARE, Rao Bahadur D. A.

The Honourable the PRESIDENT: Order, order. Questions.

TEMPORARY ESTABLISHMENT OF THE P. W. D.

*Mr. S. K. BOLE (Bombay City, North): Will Government be pleased to state (*a*) the number of retired officers and subordinates employed in the Public Works Department on the temporary establishment in the Presidency with the salary and age of each person as well as the amount of pension drawn by each of them, (*b*) and the necessity of their employment?

The Honourable Sir CHIMANLAL SETALVAD: The information relating to officers was furnished at the last session of the Council. That in connection with subordinates has been embodied in the accompanying statement.†

COUNTRY LIQUOR SHOPS AT MAHABLESHWAR AND PANCHGANI.

*Khan Bahadur D. B. COOPER (Satara District): (*a*) Is Government aware of the fact that owing to the discontinuance of the country liquor shops at Mahableshwar and Panchgani in the Satara district on temperance grounds from 1st April 1922, the sales of the tariff duty paid spirits of much higher strength than the country liquor which used to be sold there have so much increased that the total consumption of spirits remains all the same notwithstanding the closing of the shops causing hardship on poor people and compelling them to buy inferior foreign spirit at a higher cost?

(*b*) Will Government be pleased to supply the figures of sales of foreign and country spirit for the three months, April, May and June for the last year and the figures of sales of the corresponding months of the current year in proof gallons at Mahableshwar and Panchgani?

The Honourable Dr. R. P. PARANJPYE: (*a*) Yes.

(*b*) Two statements‡ furnishing the requisite figures are laid on the Council table.

MEMORIAL FROM PROVINCIAL POLICE.

Sardar Khan Bahadur A. M. DALAL (Broach District): Will Government be pleased to state if they have received a memorial from members of the provincial police and if so, when they may expect to receive final orders on the subject of their grievances enumerated therein?

The Honourable Mr. H. S. LAWRENCE: Government have received the memorials which will receive careful and sympathetic attention, but Government are unable at this stage to say when orders will be issued.

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* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

† *Vide* Appendix H.

‡ *Vide* Appendices I and J.

TRAVELLING ALLOWANCE TO POLICE OFFICERS.

Sardar Khan Bahadur A. M. DALAL (Broach District): (*a*) Is Government aware of the fact that under its recent travelling allowance rules, if a senior deputy superintendent of police even when acting as District Superintendent of Police and a probationary assistant superintendent of police were to travel together, the former officer would draw travelling allowance on the inferior scale, whereas his subordinate would draw travelling allowance on the superior scale ?

(*b*) If so, will Government be pleased to state why and for what reason this anomaly is due in the police service, and will Government please state if such an anomaly exists in any other service ?

The Honourable Mr. H. S. LAWRENCE: (*a*) and (*b*) The anomaly does not exist as deputy superintendents of police acting as District Superintendents of Police draw first grade travelling allowance as officers of an All-India Service.

NEW GOVERNMENT VERNACULAR SCHOOLS IN AHMEDABAD.

* Rao Saheb D. P. DESAI (Kaira District): Will Government be pleased to state—

(*a*) the number of vernacular schools opened by the Government in Ahmedabad town after the teachers were withdrawn from the municipal schools ;

(*b*) the number of teachers engaged for each of these schools, with their qualifications and pay including the allowance ;

(*c*) the average attendance of pupils in these schools since they were opened ;

(*d*) average cost per pupil in these schools ;

(*e*) average cost per pupil in the Government vernacular practising schools attached to the P. R. Training College for men and Mahalaxmi Training College for women ?

The Honourable Dr. R. P. PARANJPYE: (*a*) 4.

(*b*) *Vide* statement† appended.

(*c*) 120.

(*d*) Rs. 4-10-5 per mensem.

| | Average cost per pupil. Rs. a. p. |
|---|---|
| (*e*) (1) Gujarati Practising School attached to the P. R. Training College for Men, Ahmedabad. | 2 5 5 |
| (2) Urdu Practising School attached to the P. R. Training College for Men, Ahmedabad. | 2 13 3 |
| (3) Practising School attached to the Training College for Women, Ahmedabad. | 4 0 0 |

CHIEF CONSERVATOR OF FORESTS.

Mr. C. M. GANDHI (Surat City): (*a*) Is it not a fact that the Chief Conservator of Forests has to supervise the work of only three Conservators of Forests ? When was this post created ? Who did the present work of this office before it was brought into existence ?

* This question was asked at the meeting held in February 1922, when an ad *interim* reply was given.

† Appendix K.

(*b*) Will Government state if any and what insuperable difficulties exist in doing away with this office ?

The Honourable Dr. R. P. PARANJPYE : (*a*) The Chief Conservator does not merely supervise the work of three Conservators. Besides that he has the following duties :—to act as the chief technical adviser of Government in regard to forest matters, to co-ordinate the work of the department in the several circles regarding the framing of working plans, to supervise and direct the collection of economic products and the conduct of forest research work, to tour throughout the Presidency and inspect the various forests and offices, to act generally as the administrative head of the department in direct communication with Government. For some time the duties of the Utilization Conservator have also been combined with those of the Chief Conservator.

The post was created on 11th December 1917.

Only some of the duties of the Chief Conservator used formerly to be discharged by the senior Conservator.

(*b*) The office was created because the need for it was seriously felt and cannot be abolished without loss of efficiency and revenue.

### COMMITTEE ON STATIONERY AND PRINTING.

Mr. C. M. GANDHI (Surat City) : Has the committee appointed by Government to report on the working of the Department of Stationery and Printing made its report ? If so, will Government be pleased to lay it on the table of the House ?

The Honourable Sir CHIMANLAL SETALVAD : No committee was appointed to examine into the working of the department. The report of the committee appointed to examine into the working of the Government printing presses was received in January 1921 and effect has been given to its recommendations as far as possible. Government do not consider that any useful purpose would now be served by laying the report on the table.

### TRANSFER OF MAGISTERIAL WORK TO SUB-JUDGES.

Mr. C. M. GANDHI (Surat City) : (*a*) Are the proposals of the Commissioners as to the practicability of reducing the ordinary magisterial establishments and of transferring the magisterial work to subordinate judges at places where there are subordinate judges' courts received ? If so, will they be laid on the table of the House in order to enable the Council to consider them ?

(*b*) By what time do Government propose to give effect to the resolution of the Council on the question ?

The Honourable Mr. M. H. W. HAYWARD : (*a*) The Commissioners' replies have been received and are being considered by Government.

(*b*) It is impossible to say. The question depends largely on the retrenchments promised to the Legislative Council.

Mr. C. M. GANDHI : My question as to whether the proposals will be placed on the Council table for their consideration has not been answered.

The Honourable Mr. M. H. W. HAYWARD : I do not quite follow you. Does your " If so " mean " if the question depends on the retrenchments promised to the Council " ?

Mr. C. M. GANDHI : My " If so " means if the proposals are received.

The Honourable Mr. M. H. W. HAYWARD : No, Sir, not at present.

PLOTS OF LAND AT MATHERAN.

*Mr. M. A. HAVELIVALA (Bombay City): (*a*) Will Government please state whether they have leased out any plots of land at Matheran on the Rugby plateau and in Mary Lane during the last two years ? If so, how many and to whom and at what price ?

(*b*) Whether there were other applicants for these plots and, if so, how many and whether their applications were considered and, if so, with what result ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) During the last two years, only one plot has been leased out on the Rugby plateau. It was given out at the fixed price of Rs. 2,500 per acre to the proprietor of the Rugby Hotel at Matheran. During this period, no plots have been leased out in Mary Lane.

(*b*) There was one other application for the plot on the Rugby plateau. It was not entertained as it was received three months later than the first application and as it was considered desirable to afford facilities as far as possible for extension of hotels on the hill rather than for separate bungalows.

Mr. M. A. HAVELIVALA : May I know what was the price offered by the other applicants for that very plot ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Government require notice of the question.

INDOOR PATIENTS IN THE J. J. HOSPITAL.

Mr. M. A. HAVELIVALA (Bombay City): Will Government please say whether any *indisposed* indoor patients were sent away from J. J. Hospital and Sir Cowasji Jehangir Eye Hospital early this month and, if so, how many, giving their dates of admission, nature of their sickness and the reasons of sending them away ?

(*b*) Will Government please state as to under whose orders these indoor patients were sent away ?

(*c*) Will Government lay on the table any correspondence that passed between the Government and the hospital authorities with regard to the keeping of those indoor patients in the hospitals ?

(*d*) Will Government please state whether the hospital authorities had invited the Honourable Minister in charge of the hospital portfolio and the Surgeon General to attend the committee meeting of the hospital authorities and see things for themselves early this month, and whether they did not attend the same ? If not, why ?

(*e*) Will Government please say whether those indoor patients were re-admitted to the hospitals and if so, how many, and when, and under whose orders ?

The Honourable Dr. R. P. PARANJPYE: (*a*) and (*b*) No.

(*c*) The press note† issued on 19th August 1922 is laid on the table.

(*d*) A suggestion of this somewhat unusual nature was made by the Senior Medical Officer in a telegram dated 29th July. The matter was disposed of in the Surgeon General's memorandum of 1st August and the Government telegram of the 4th August, copies† of which are laid on the table. I have since visited the hospital and made the fullest enquiries into all the circumstances.

(*e*) Of the patients discharged from the hospital between 24th July and 4th August inclusive one was re-admitted on August 5th and discharged again on August 15th. This patient was admitted on 11th May 1922, for mastoid

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

† Kept in Secretary's office.

abscess. With regard to his re-admission the Senior Surgeon has reported that he could have attended the out-patient department, as he was convalescent, but as he had come from Igatpuri he was re-admitted.

Mr. M. A. HAVELIVALA : With regard to my question 2 (*b*) you say "no". Is there any reason for keeping this information from the Council and from the public ?

The Honourable Dr. R. P. PARANJPYE : The question does not arise. The honourable member has asked whether any indoor patients were sent away. None were sent away.

Mr. M. A. HAVELIVALA : I ask under whose orders they were sent away.

The Honourable Dr. R. P. PARANJPYE : Obviously that question does not arise as no indisposed indoor patients were sent away.

Mr. KANJI DWARKADAS : Will Government be pleased to state why the Minister for Education and the Surgeon General were invited to attend the meeting in Bombay, which procedure the Honourable Minister now says is of a somewhat unusual nature ?

The Honourable Dr. R. P. PARANJPYE : The Surgeon-General and the Minister were invited together. That is the unusual procedure.

Mr. KANJI DWARKADAS : Will Government be pleased to state why this unusual request was made to them ?

Mr. M. A. HAVELIVALA : You say in (*d*) "I visited the hospital and made the fullest enquiries into all the circumstances." Will you kindly tell this Council and to the public through this Council the result of your enquiries ?

The Honourable the PRESIDENT : Please address the Chair.

Mr. M. A. HAVELIVALA : Although I am looking at the Minister, it is understood that I am addressing the Chair.

The Honourable the PRESIDENT : You say "Will you, etc."

Mr. M. A. HAVELIVALA : Will the Honourable Minister be good enough to give his opinion to the public through this Council ? The public are very anxiously waiting as to the result of the enquiries of the Minister in charge of this department.

The Honourable Dr. R. P. PARANJPYE : There is the press note in which the information is given.

### ADMISSION OF PATIENTS IN THE J. J. HOSPITAL.

Mr. M. A. HAVELIVALA (Bombay City) : Will Government please say as to how many patients sought admission in the J. J. Hospital in the months of May, June and July last and how many got admission and how many were refused ?

The Honourable Dr. R. P. PARANJPYE : The number of patients admitted in the J. J. Hospital during the months of May, June and July 1922 were 674, 643 and 539 respectively. It is not, however, possible to say how many patients sought admission to the hospital. Patients do not, as a rule, ask to be admitted into hospital, but are admitted from the out-patients department or the casualty room when this is considered necessary by the out-patient staff. This hospital has always been full and new patients were admitted up to the limit of the accommodation available, except from the period from July 24th to August 4th.

Patients are refused admission at times because it is considered that their complaint is not one which requires treatment in a hospital, while, on the other hand, many patients, far from seeking admission, are only too anxious to remain as out-patients and have to be persuaded by the medical officers to come into hospital, for the necessary treatment.

### WALIKAR ESTABLISHMENT.

*Mr. C. C. HULKOTI (Dharwar District): Will the Government be pleased to state what is the total saving from the reduction of the Walikar establishment of the villages in the Presidency?

The Honourable Sir IBRAHIM RAHIMTOOLA: The savings effected are as shown below:—

| | | Rs. | a. | p. |
|---|---|---|---|---|
| Satara | .. .. .. | 4,028 | 8 | 0 |
| Belgaum | .. .. .. | 60,957 | 14 | 0 |
| Dharwar | .. .. .. | 49,170 | 3 | 1 |
| Bijapur | .. .. .. | 25,954 | 2 | 7 |
| | Total .. | 1,40,110 | 11 | 8 |

The savings in the Satara district were effected in the years 1919 and 1920, those in the Belgaum district between the years 1910—20, in the Dharwar district between the years 1910—13, and in the Bijapur district between the years 1910—14. The reduction of shetsanadi establishment in the Sholapur district is under consideration.

### NUMBER OF APPEALS FROM ACQUITTALS.

Mr. C. C. HULKOTI (Dharwar District): Will Government be pleased to state:—

(*a*) how many appeals from acquittals were filed by Government during the last three years ending 31st March 1922,

(*b*) out of these, how many were allowed and how many disallowed by the Honourable High Court of Bombay,

(*c*) what is the total amount of expenditure on all the appeals filed, and

(*d*) what is the total amount of expenditure on appeals that were dismissed?

The Honourable Mr. M. H. W. HAYWARD: The information has been called for.

### POLICE STATIONS IN DHARWAR DISTRICT.

Mr. C. C. HULKOTI (Dharwar District): Will the Government be pleased to state:—

(*a*) how many police stations and outposts are in the district of Dharwar;

(*b*) how many offences were registered and how many were investigated and sent up for trial during the last three years, 1919, 1920 and 1921—

(*i*) in Shiragupi police station, Annigeri,

(*ii*) in Annigeri police station,

(*iii*) in Mugad police station, all in Dharwar district;

(*c*) have any of these three police stations been abolished during the retrenchment, if not, why not?

*This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

The Honourable Mr. M. H. W. HAYWARD : There are in all 23 police stations and 16 outposts in the Dharwar district.

One police station and five police outposts have been reduced provisionally under the retrenchment scheme but the three police stations mentioned have not been included in the retrenchment owing to the prevalence of crime in the district. The question of their reduction will however be referred once more in view of the suggestions of the member for the particular opinion of the Inspector General of Police.

Mr. C. C. HULKOTI : Will Government be pleased to answer part (*b*) of the question ? There is no answer at all to (*b*).

The Honourable Mr. M. H. W. HAYWARD : I have not answered the question, because I have undertaken, on the suggestion that the crime is small, to refer the matter again to the opinion of the Inspector General of Police.

RENT OF BUILDINGS OCCUPIED BY GOVERNMENT OFFICERS.

Mr. C. C. HULKOTI (Dharwar District) : Will the Government be pleased to state :—

(*a*) how the rent on residential buildings occupied by Government officers is calculated, *i.e.*, at what percentage of the cost in the following districts—

(1) Dharwar,
(2) Bijapur,
(3) Belgaum ;

(*b*) who fixes the rent of these buildings in the district and how it is recovered by Government ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : (*a*) The rent on such of the buildings in question as were constructed or purchased before 1st January 1922, *i.e.*, before the Fundamental Rules came into force is calculated at 5 per cent. of the capital cost, *i.e.*, 3½ per cent. for interest, 1½ per cent. for repairs. That on buildings constructed or purchased and additions and alterations to existing buildings carried out after 1st January 1922 is calculated at 8 per cent. of the capital cost, *i.e.*, 6½ per cent. for interest, 1½ per cent. for repairs. The percentage is uniform for all the districts in the Presidency.

(*b*) Before the introduction of the Fundamental Rules the rent was sanctioned by the Superintending Engineers of Divisions. It is now sanctioned by Government. The rent so fixed is recovered by deduction from the salary bills of the officers concerned, the maximum amount of rent recoverable from an officer being limited to 10 per cent. of his emoluments.

COMMUTATION OF KULKARNI WATANS.

Mr. B. V. JADHAV : Will Government be pleased to state—

(*a*) The number of villages in the districts of the Central and Southern Divisions in which the kulkarni watan service is commuted and they are now replaced by stipendiary talatis ?

(*b*) The number of villages in each district in the two divisions the kulkarnis of which are still officiating ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Information has been called for.

RULES UNDER CRIMINAL TRIBES ACT.

Mr. B. V. JADHAV: Will Government be pleased to place a copy of the rules passed under section 20 of the Criminal Tribes Act applicable to the district of Satara ?

The Honourable Mr. M. H. W. HAYWARD: A reference is requested to Government Notification No. 9828, dated the 19th October 1920, in the Judicial Department published at pages 3297—3302 of Part I of the *Bombay Government Gazette* dated the 9th December 1920.

LIST OF CRIMINAL TRIBES.

Mr. B. V. JADHAV: Will Government be pleased to state when they expect the list of criminal tribes will be revised in the district of Satara ?

The Honourable Mr. M. H. W. HAYWARD: The work has been taken in hand and will be completed during the next two touring seasons.

LAND FOR HOUSES AT LONAND.

Mr. B. V. JADHAV: Will Government be pleased to state :—

(*a*) What is the area of the Gavthan of the town of Lonand ?

(*b*) Whether the town is very congested and people are asking for more house sites ?

(*c*) What area is now acquired by Government ?

(*d*) What area is now left by Government to private individuals to build huts only ?

(*e*) What is the rent charged per guntha per month ?

(*f*) Whether it is a fact that the rent charged amounts to Rs. 480 per acre per mile ?

(*g*) What is the average price per acre at which Government acquired the land ?

(*h*) Whether Government contemplate to acquire more area there ?

(*i*) Whether Government intend to let it at the same rate of rent ?

The Honourable Sir IBRAHIM RAHIMTOOLA: Information has been called for.

PANDHARPUR-LONAND AND MIRAJ RAILWAY.

Mr. B. V. JADHAV: Will Government be pleased to say whether there is any prospect of the Barsi Light Railway taking into hand the construction :

(*a*) Of the Pandharpur-Lonand section within the next five years ?

(*b*) Of the Pandharpur-Miraj section within the next five years ?

The Honourable Sir IBRAHIM RAHIMTOOLA: This Government is in communication with the Railway Board about the matter but no decision has yet been reached.

FOREST AREA IN SATARA DISTRICT.

Mr. B. V. JADHAV: Will Government be pleased to state for the district of Satara—

(*a*) The area per taluka under forest ?

(*b*) The forest area per taluka under management by the Revenue Department ?

(*c*) The revenue derived by the two departments respectively ?

(*d*) The amount of cattle grazing fees received per taluka last year ?

(*e*) The establishment charges at the talukas and at Satara for the forest administration ?

The Honourable Dr. R. P. PARANJPYE: Information has been called for.

APPOINTMENTS OF VERNACULAR TEACHERS.

Mr. B. V. JADHAV: Will Government be pleased to state :—

(*a*) Whether the deputy educational inspector of Satara has been asked to ascertain from candidates for appointment as vernacular teachers about their willingness to take service on Rs. 12-8-0 per mensem ?

(*b*) How many of such candidates have given their consent to serve under the proposed conditions ?

(*c*) How many of these are Brahmins ?

(*d*) Are these to be recruited as probationers and to be confirmed on Rs. 25 within a year or two ?

(*e*) Are the deputy educational inspectors of other districts asked to make similar enquiries ?

(*f*) If the reply be in the negative, will Government be pleased to say what special circumstances in Satara necessitated the enquiry ?

(*g*) I the reply to sub-question (*e*) be in the affirmative, will Governmefnt be pleased to say what their policy is in this connection ?

The Honourable Dr. R. P. PARANJPYE: Enquiries are being made.

CONSULTING ARCHITECT'S ESTABLISHMENT.

* Rao Bahadur R. R. KALE (Satara District): Will Government be pleased to state when the Consulting Architect's establishment was created together with the expenses of the department year by year since its creation ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Information regarding the dates of creation of the offices of the Consulting Architect to Government and the Executive Engineer, Architectural District, under him together with the figures of expenditure on establishment in those offices during the five years ending 1920-21 was furnished at the last session ; that regarding the remaining years with the exception of 1901-1902 (for the Consulting Architect's office) for which separate figures are not recorded is as under :—

| | Consulting Architect to Government. | Architectural District. |
|---|---|---|
| | Rs. | Rs. |
| 1902-03 | .. 27,052 | .. |
| 1903-04 | .. 31,422 | .. |
| 1904-05 | .. 36,448 | .. |
| 1905-06 | .. 44,076 | .. |
| 1906-07 | .. 46,319 | .. |
| 1907-08 | .. 45,551 | .. |
| 1908-09 | .. 34,195 | .. |
| 1909-10 | .. 35,483 | .. |
| 1910-11 | .. 42,150 | .. |
| 1911-12 | .. 41,122 | .. |
| 1912-13 | .. 51,259 | .. |
| 1913-14 | .. 68,796 | .. |
| 1914-15 | .. 72,958 | 8,216 |
| 1915-16 | .. 66,058 | 35,959 |
| 1921-22 | .. 1,27,904 | 50,696 |

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

NUMBER OF PROSECUTIONS IN THE SATARA DISTRICT.

Rao Bahadur R. R. KALE (Satara District): What is the number of prosecutions under Chapter VIII of the Criminal Procedure Code in the Satara district during the last three years? In how many of them, securities were taken? What is the number of appeals in such cases? In how many cases the accused had to remain in jail for want of security? In how many cases were securities refused more than once?

The Honourable Mr. M. H. W. HAYWARD: The information is being obtained.

CRIMINAL TRIBES SETTLEMENT AT HUBLI.

* Mr. S. T. KAMBLI (Dharwar District): Will Government be pleased to give information as to—

(*a*) How many prosecutions and for what offences were lodged against members of the Criminal Tribes Settlement at Hubli after the transfer of management of the same to a private body till end of December 1921?

(*b*) How many of such prosecutions ended in convictions?

(*c*) What was the number of prosecutions and convictions for the corresponding period of previous two years?

(*d*) Is it a fact that there has been a laxity of control over the members of criminal tribes after the transfer of management of the same to a private body?

(*e*) Is it a fact that the number of absentees at night was greater in the period referred to in (*a*) above than in the corresponding periods of the previous two years?

The Honourable Mr. M. H. W. HAYWARD:

(*a*), (*b*), (*c*) A statement† embodying the information is placed on the Council table.

(*d*) It is not a fact.

(*e*) It is not a fact.

ENGLISH TEACHING AT KURTKOT IN GADAG.

‡ Mr. S. T. KAMBLI (Dharwar District): (*a*) Is it a fact that the villagers of Kurtkot in Gadag taluka of Dharwar district have applied that provision should be made in the village for teaching English?

(*b*) Is it a fact that there is no school at Kurtkot where English is taught?

(*c*) What is the population of the said village?

The Honourable Dr. R. P. PARANJPYE: (*a*) No.

(*b*) Yes.

(*c*) 3,772 according to the Census of 1921.

SUITS IN THE FIRST CLASS SUBORDINATE JUDGES' COURTS.

Mr. S. T. KAMBLI (Dharwar District): Will Government be pleased to state:—

(*a*) The number of first class suits filed in each of the first class subordinate judges' courts in the Presidency in each of the following years, *viz.*, 1917-18, 1918-19, 1919-20, 1920-21 and 1921-22?

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* This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

† *Vide* Appendix L.

‡ This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

(*b*) The number of first class suits over a year old pending in each of these courts at the end of July 1922 ?

(*c*) The total number of first class suits pending in each of these courts by the end of July 1922 ?

The Honourable Mr. M. H. W. HAYWARD : The information is being obtained.

PROCEEDS FROM AUCTION SALE OF LIQUOR SHOPS.

Mr. S. T. KAMBLI (Dharwar District) : Will Government be pleased to state :—

(*a*) The amount for which toddy and other liquor shops have been auctioned for the current year in the Presidency ?

(*b*) The amount for which these shops had been auctioned during the year 1921-22 and 1920-21 ?

The Honourable Dr. R. P. PARANJPYE : Information has been called for.

REVENUE DERIVED FROM COURT-FEE AND GENERAL STAMPS.

5. Mr. S. T. KAMBLI (Dharwar District) : Will the Government be pleased to state :—

(*a*) The revenue derived (*i*) from the sale of court-fee stamps, (*ii*) and from the sale of general stamps for the period from 1st April 1922 to the 15th of August 1922 ?

(*b*) What was the revenue from these sources for each of the corresponding periods of the last two years ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Information has been called for.

VILLAGE OFFICERS IN DHARWAR DISTRICT.

Mr. S. T. KAMBLI (Dharwar District) : Will the Government be pleased to state—

(*a*) The total number of (*i*) patels and (*ii*) kulkarnis in the Dharwar district ?

(*b*) The total number of talati kulkarnis and the total number of talati patels in the same district ?

(*c*) The total number of villages in the same district ?

(*d*) The total number of (*i*) revenue patels and (*ii*) of police patels in the same district ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Information has been called for.

CAUSEWAY OVER ASUNDI NALA.

Mr. S. T. KAMBLI (Dharwar District) : (*a*) Is the Government aware that the nala called the Asundi nala on the Haveri Guppal road causes great inconvenience to the public on account of want of a bridge or causeway over it ?

(*b*) Is it in the contemplation of Government to construct a bridge or causeway over it ?

(*c*) If so, when will the construction be taken in hand ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : (*a*) The Haveri Guppal road is not known. Perhaps the eastern section of the Havanur Yekkambi road is referred to the section from Haveri to Havanur,

upon which is the village of Gutal. If so, then there is a nala still unbridged near Agadi.

(*b*) Yes.

(*c*) When funds become available.

SALARY OF THE HEAD CLERK OF DISTRICT SUPERINTENDENT OF POLICE, KARACHI.

Mr. G. H. KASSIM (Karachi City): (*a*) Will Government be pleased to state if it is a fact that Mr. Jeoosingh Hemansing, head clerk to the District Superintendent of Police, Karachi, was granted two advance increments by the Commissioner in Sind owing to which he was permitted to draw Rs. 135 instead of Rs. 125 per mensem ?

(*b*) Whether he drew his increased rate of pay from 20th July 1920 and Rs. 145 on 20th July 1921 ?

(*c*) Whether under the orders of Government he should have continued to draw Rs. 135 up to 20th July 1922 and thereafter Rs. 140 ?

The Honourable Mr. M. H. W. HAYWARD : (*a*) and (*b*) The reply is in the affirmative.

(*c*) The reply is in the negative.

This is the question which I promised to answer the other day.

SIND RAILWAY POLICE.

Mr. G. H. KASSIM (Karachi City) : Are Government aware that the offices of the Superintendent of Police, Karachi and Sind Railways, have not been inspected since 1918 ?

The Honourable Mr. M. H. W. HAYWARD : It is a fact that the Deputy Inspector General of Police for Sind has not carried out a formal inspection of the two offices mentioned since 1918. Other work of exceptional urgency has interfered with the regular routine of inspection laid down by standing orders, and in the case of offices stationed at headquarters with which he is closely in touch, he can to a considerable extent satisfy himself of their efficiency without a detailed inspection. His attention has however been called to the matter.

This is the other question which I promised to answer the other day.

APPOINTMENT OF NOTARIES PUBLIC IN KARACHI.

* Mr. G. H. KASSIM (Karachi City) : Will Government be pleased to state—

(*a*) The number of notaries public in Karachi ?

(*b*) The number of cases referred to each of them every year during the last 5 years ?

(*c*) If any applications are invited for such appointments ?

(*d*) If any Hindu or a Mahomedan has ever been given this appointment during the last 20 years in Karachi ?

The Honourable Mr. M. H. W. HAYWARD: (*a*) and (*b*) A statement† is placed on the table.

(*c*) No.

(*d*) Several *ex-officio*. None non-official.

* This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

† *Vide* Appendix M.

Mr. G. H. KASSIM: Will Government be pleased to state whether any Hindu or Mahomedan was in charge at any time?

The Honourable Mr. M. H. W. HAYWARD: The reply is, several *ex-officio* None non-official.

Mr. G. H. KASSIM: I want to know whether any Hindus or Mahomedans were appointed.

The Honourable Mr. M. H. W. HAYWARD: The answer is, several *ex-officio* Hindus and Mahomedans; no non-official Hindus and Mahomedans.

### SUKKUR HIGH SCHOOL.

*Mr. G. H. KASSIM (Karachi City): (*a*) Will Government be pleased to state whether it is moved by the Sukkur municipality to take over the maintenance of the high school under the latter's control?

(*b*) If the answer is in the affirmative, what action does Government propose to take?

The Honourable Dr. R. P. PARANJPYE: (*a*) Yes.

(*b*) Government do not propose to comply with the request of the municipality.

### ASSISTANT CONSULTING ARCHITECT TO GOVERNMENT.

†Mr. G. H. KASSIM (Karachi City): (*a*) * * * *

(*b*) How many designs of architectural interest have been prepared by the Assistant Consulting Architect since his being posted to Karachi and how many have been approved of by Government?

(*c*) * * * * * * * * * * * *

(*d*) * * * * * * * * * * * *

(*e*) If yes, how much?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: (*b*) Twenty designs have been prepared by the Deputy Consulting Architect since his posting to Karachi, out of which four have been approved and the remaining are either under consideration or require certain details, which are awaited from the local officers.

(*e*) Rs. 61,918-11-0.

### PUBLIC MOVEMENTS AND INAMDARS AND WATANDARS.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Will Government be pleased to state:—

(*a*) The names of the inamdars or watandars who have been served with notices to show cause why their inams should not be resumed for taking part in some public movements?

(*b*) The action taken on these notices in each individual case.

(*c*) The specific charges against each of them for which the notices were issued or the reports on which the Government proceeded and the names and designations of the persons making the reports?

(*d*) Whether any regular inquiry was made in each case and whether any opportunity was given to submit explanations about the charges

*This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

†This question was asked at the meeting held in July 1922, when an *ad interim* reply was given. *Vide* page 463, Vol. VI.

levelled against them or to explain their conduct, and also to cross-examine the witnesses who deposed against them, or whether the decision of Government was based merely on the reports received ?

(*e*) The explanations given by any of the persons on the charges if communicated to them, or whether the charges were not communicated to them at all ?

(*f*) If any persons against whom such notices have been issued hold any offices or are members of the local self-government bodies, or are serving on any other semi-government bodies like the co-operative societies or agricultural associations ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Government will be glad to give any information reasonably required in respect of any specific instance, but cannot undertake to prepare general statements of the nature indicated in the question.

Sardar V. N. MUTALIK: Are there several cases ?

The Honourable Sir IBRAHIM RAHIMTOOLA : There are several such cases.

### RESUMPTION OF INAMS.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Will Government be pleased to place on the table all the correspondence in connection with the resumption of inams for taking part in any of the current public movements ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Confidential correspondence cannot, in the public interests, be placed on the table.

### SURVEY SETTLEMENTS IN ALIENATED VILLAGES.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars) : (*a*) Will Government be pleased to state the number of alienated villages in each district or in each Division, which are due for the first or second revision settlement, but in which such settlements have not been introduced although the talukas in which they are situated are settled ?

(*b*) Will Government be pleased to state the number of alienated villages in each district or in each division, the holders of which have applied for such introduction of the survey settlements, but in which the settlement is not yet introduced ?

(*c*) Will Government be pleased to state when they intend to take up the work of survey settlements in alienated villages stated in questions (*a*) and (*b*), which is due for a long time ?

The Honourable Sir IBRAHIM RAHIMTOOLA :

| | | | |
|---|---|---|---|
| (*a*) Northern Division | .. | .. | *Nil.* |
| Central Division | .. | .. | 145 |
| Southern Division | .. | .. | 11 |

(*b*) No application for revision settlement to be introduced into villages in which it is due is necessary. But so far as can be ascertained, five inamdars of five of the villages included in the answer to the preceding clause have pressed for the introduction of the revision settlement in their villages.

(*c*) As soon as the Legislative Council passes the grant for the field party establishment which they cut out of the budget for the current year.

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

EDUCATION OF THE DEAF AND THE DUMB.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Will Government be pleased to state :—

(*a*) Whether there are any special facilities provided for by Government for the education of the deaf and the dumb in this Presidency ?

(*b*) Whether there are any facilities for training teachers (either private persons by way of scholarships or for teachers in Government service in this special line ?

(*c*) If no facilities are available for the instruction, what steps do Government intend to take in this matter ?

The Honourable Dr. R. P. PARANJPYE: (*a*), (*b*) and (*c*) The whole question of the education of defectives was referred to a special committee in October 1917. The committee's report was considered and orders issued thereon in February 1920. These orders sanctioned *inter alia* a special allotment of Rs. 12,620 in the budget for the education of defectives of which a portion was intended for the training of teachers. Owing to financial stringency the provision has been reduced by Rs. 10,000 in the current year, and further steps to improve facilities for the education of defectives must be postponed till the financial situation improves.

TRAVELLING ALLOWANCE DRAWN BY CERTAIN OFFICERS IN POLICE DEPARTMENT.

*Mr. B. G. PAHALAJANI (Western Sind): Will the Government give separately the actual figures of the travelling allowance drawn in the Police Department by—

(*a*) The District Superintendents of Police and their establishments,
(*b*) The Assistant Superintendents of Police,
(*c*) The Inspectors,
(*d*) The Sub-Inspectors,

and at what rates for railway-fare and daily allowance, during the last 10 months ?

The Honourable Mr. M. H. W. HAYWARD: Separate figures for the various classes mentioned are not available, and could only be collected at an expense of labour and cost not commensurate with their utility. A statement† of the various rates is laid on the table.

CONSTRUCTION OF AHMEDABAD-KUHA ROAD.

Mr. B. P. PATEL (Ahmedabad District): Will Government be pleased to state why the amount collected for the construction of the Ahmedabad-Kuha road by levying certain amounts from khatedars is lying useless in the Government treasury since long and when will it be taken in hand ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Information has been called for.

VILLAGE CHORAS IN KAIRA DISTRICT.

Mr. J. B. PATEL (Kaira District): Will Government be pleased to inform this Council :—

(*a*) How many village choras in Kaira district are in a dilapidated condition ?

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* This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

† Vide Appendix N.

(*b*) Do Government intend to repair them ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Information will be called for.

CODE PAY TO VERNACULAR PRIMARY SCHOOL TEACHERS.

Mr. J. B. PATEL (Kaira District) : Will Government be pleased to inform this Council :—

(*a*) When do Government intend to give the code pay to the teachers in the vernacular primary schools under the last year's scheme of the Honourable Dr. R. P. Paranjpye, the Minister in charge of Education ?

(*b*) Do Government intend to take the previous services of the first and second year men who have passed the third year's examination after serving Government for some years as teachers in Educational Department ?

The Honourable Dr. R. P. PARANJPYE : Both the questions are under consideration.

TRAVELLERS' AND INSPECTION BUNGALOWS.

*Dr. S. S. BATLIWALA on behalf of Mr. JEHANGIR B. PETIT (Bombay Millowners' Association) : Are Government aware that travellers' and inspection bungalows, one after another, are often used by Government servants on leave, for different periods, thus enabling individual officers on leave to enjoy a continuous holiday in Government properties without paying for them, often to the exclusion of the public in the case of travellers' bungalows and to the inconvenience of Government officers on duty in the case of inspection bungalows ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Government are not aware of any instances of the nature referred to. When travellers' and inspection bungalows are occupied by Government servants on leave, which is very rare, the position of the occupant is merely that of a member of the general public. The usual occupation fees are paid, the period of occupation is restricted by the rules governing their occupation and in the case of inspection bungalows care is taken to cause no inconvenience to Government officers travelling on duty.

The Honourable the PRESIDENT : Have you authority to ask questions on behalf of the honourable member (Mr. J. B. Petit) ?

Dr. S. S. BATLIWALA : The honourable member, Mr. Jehangir B. Petit, has telephoned to me to ask the questions in his behalf.

The Honourable the PRESIDENT : You ought to have obtained permission of the Chair first.

Dr. S. S. BATLIWALA : I regret the omission, Sir.

SUITS IN THE FIRST CLASS SUB-JUDGE'S COURT OF SHOLAPUR.

†Mr. R. G. SALGAR (Sholapur City) : (*a*) How many suits have been filed in the first class sub-judge's court at Sholapur in the last two years ?

(*b*) How many of them retained by the first class sub-judge's court and how many are transferred to the joint sub-judge's court ?

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

† This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

(*c*) How many of them have been either compromised or withdrawn in both the courts ?

(*d*) How many have been tried on merits and decided by both the Courts and how many are still pending ?

The Honourable Mr. M. H. W. HAYWARD: A statement* is laid on the table.

PROSECUTION OF TONGA DRIVERS IN SHOLAPUR.

†Mr. R. G. SALGAR (Sholapur City): Will Government be pleased to state how many proceedings were launched against the licensed tonga drivers in the Sholapur city for having allowed more passengers to sit than they are authorised by their licenses in the year 1921-22 ?

The Honourable Mr. M. H. W. HAYWARD: 137 from 1st July 1921 to 30th June 1922.

PROSECUTION OF RAILWAY SERVANTS.

†Mr. R. G. SALGAR (Sholapur City): Will Government be pleased to state whether any responsible railway servants have been prosecuted during the last ten years in this Presidency for allowing more passengers in railway compartments than the fixed number authorised ?

The Honourable Sir IBRAHIM RAHIMTOOLA: With the exception of the G. I. P. Railway, no responsible servants of any other railway administration in this Presidency were prosecuted during the last ten years for allowing more passengers in railway compartments than the fixed number authorised.

The Agent, G. I. P. Railway Company, reports that information cannot be given for the last ten years, as records for three years only are available. The Agent states that during the period 1919—22 there has been one instance of the nature mentioned in the Bombay Presidency. In this case one Mr. Javadekar filed a suit against the Railway Company and a guard for damages amounting to Rs. 5 on account of the annoyance and inconvenience he alleged to have suffered as a result of the compartment in which he was travelling from Chalisgaon to Dhulia on 25th March 1919 being overcrowded. The case was dismissed, a decree being passed that each party should bear its own costs.

SALE OF LIQUOR IN POONA.

†Mr. R. G. SALGAR (Sholapur City): Will Government be pleased to state whether the sale of country liquor in Poona city has decreased and the sale of foreign liquor increased ? If so, can Government give any reason for it ? What are the sales of country and foreign liquor in April, May and June 1922 in Poona city ?

The Honourable Dr. R. P. PARANJPYE: Sale of country liquor decreased greatly in 1921 owing to picketing. It has now recovered but is still lower than in 1920. The sale of foreign liquor has increased to a small extent.

Figures for April, May and June 1922 are shown below :—

| 1922. | Foreign liquor. L.P.G. | Country liquor. L.P.G. |
|---|---|---|
| April .. .. | 308 | 1,694 |
| May .. .. | 400 | 2,294 |
| June .. .. | 391 | 2,384 |

* *Vide* Appendix O.

† This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

TODDY IN SHOLAPUR.

*Mr. R. G. SALGAR (Sholapur City): Will Government be pleased to state :—

(*a*) Since how many years Messrs. Boyce and Company have been working as toddy contractors in Sholapur city ?

(*b*) How many toddy trees within a short distance from the Sholapur city have been purchased by the said company or taken on lease from the owners and for what period ?

(*c*) Is it a fact that no bidder dares to bid for want of trees ?

(*d*) How many toddy trees were tapped in 1920-21 and 1921-22 for Sholapur in each month and what income did the Government derive from the license fee and tree-tax for the above period by month ?

The Honourable Dr. R. P. PARANJPYE : (*a*) 1909-10.

(*b*) The number of trees purchased and taken on lease is 6,000 and 13,000 respectively. The period of lease is 20 to 30 years.

(*c*) It is not correct that no bidder dares to bid for want of trees. There are plenty of trees available, though not so well situated as those belonging to Messrs. Boyce and Company. At the last auction several men bid, but they did not go very high.

(*d*) A statement† containing the requisite information is laid on the Council table.

APPLICATIONS FROM SHANBHOGS OF KANARA DISTRICT.

Mr. A. N. SURVE (Bombay City, North) : (*a*) Has Government received applications from the Shanbhogs of the Kanara district (individually) who are served with notices dispensing with their services from 30th September 1922 ?

(*b*) If the answer to the above be in the affirmative, what action do Government propose to take on it ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) Yes.

(*b*) Government have not considered the petitioners' request and are awaiting receipt of copies of the applications submitted through the proper official channel.

Mr. A. N. SURVE : I wish to know whether these talatis were dismissed from service before the expiry of notice.

The Honourable Sir IBRAHIM RAHIMTOOLA : I require notice of that question.

ORDER REGARDING STRIKER SHANBHOGS.

Mr. A. N. SURVE (Bombay City, North) : (*a*) Is it true that the Collector of Kanara and the prant officer, Rao Bahadur S. S. Koimattur, either orally or in writing had given the striker shanbhogs to understand through Mr. Nadig, mamlatdar of Kumta, that the order entailing loss of service and grade will not be enforced ?

(*b*) Were these shanbhogs given their pay until March 1922 under the revised scale without taking into account the loss of service and grade they had incurred at the time of resuming the service after the strike ?

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

† *Vide* Appendix P.

(*c*) Has there been a want of uniformity of treatment in the case of striker talatis of the Southern Division on the one hand and Northern Division and Central Division on the other hand ?

The Honourable Sir IBRAHIM RAHIMTOOLA: Information will be called for.

NUMBER OF CASES DISPOSED OF BY RENT CONTROLLER.

Mr. KANJI DWARKADAS on behalf of Mr. PURSHOTAMDAS THAKURDAS: Will Government be pleased to place on the table a statement showing the total number of cases disposed of by the Rent Controller, together with a summary giving the number of cases in which the decisions of the Rent Controller and/or his committee were in favour of—

(*a*) the tenant,

(*b*) the landlord ?

The Honourable Sir CHIMANLAL SETALVAD: Information is being obtained.

PREPARATION OF THE ELECTORAL ROLLS.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will Government be pleased to say when the preparation of the electoral rolls for the next Council election will be taken in hand ?

(*b*) What steps do they propose to take to make it widely known to the public at large ?

The Honourable Sir CHIMANLAL SETALVAD: (*a*) The preparation of the new rolls will be taken in hand next year.

(*b*) The Director of Information will be instructed to give the matter due publicity in the press and otherwise.

PRIVATE PRACTICE TO CONSULTING ARCHITECT TO GOVERNMENT.

* Mr. G. B. TRIVEDI (Thana District): (*a*) Will Government be pleased to state if the Government Consulting Architect or his assistants are allowed private practice ?

(*b*) If so, will they be pleased to state the amount of fees received by them from such practice as compared to their salaries during the last five years ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN:

(*a*) * * * *

(*b*) The necessary information is embodied in the attached statement.†

GRANTS TO EUROPEAN SCHOOLS.

‡ Mr. G. B. TRIVEDI (Thana District): What amount was spent in European Schools in 1919 and 1920-21 as (*a*) boarding grants and (*b*) as the payments for (1) orphans and destitute children, and (2) children of the poor, (*c*) how many schools took advantage of this and which were they, (*d*) what was the number of children of class (1) and (2) in each of the two years ?

(*e*) Are similar grants available in non-European schools ?

The Honourable Mr. M. H. W. HAYWARD: Parts (*a*) to (*d*) The information is given in the statements § which are laid on the table.

(*e*) This has already been answered.

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* This question was asked at the meeting held in September 1921, when an *ad interim* reply was given.

† *Vide* Appendix Q.

‡ This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

§ *Vide* Appendix R.

NOMINATION OF DEPRESSED CLASSES ON LOCAL BOARDS.

*Mr. G. B. TRIVEDI (Thana District): Will Government be pleased to state :—

(*a*) If the Depressed Classes Mission Society, Poona, was being consulted for the last three years in the matter of nomination of the depressed classes people on the local bodies in the Deccan and Karnatic ?

(*b*) If the reply be in the affirmative, were the recommendations of the society accepted by Government ?

(*c*) Did any recommendation from the society reach Government in 1922 with regard to nomination on the Poona municipality ?

(*d*) If so, was it accepted ?

(*e*) If not, why not ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: (*a*) It was not consulted, but its recommendations, like those of any other public body, were duly considered when made.

(*b*) Its recommendations were accepted in making nominations to the municipal boards of Poona city, Satara, Ahmednagar, Dharwar and Hubli and to the taluka local board, Hubli.

(*c*) The name of a Mahar clerk in the Collector's office was recommended to the Commissioner who makes these nominations.

(*d*) No.

(*e*) All the persons nominated by the Commissioner were non-officials and he considered that the interests of the depressed classes would be better safeguarded in the municipality by the other gentlemen who were nominated.

Mr. G. B. TRIVEDI: The right that was given to the depressed classes to have one of their community nominated on the Poona municipality was not exercised this time. Formerly it was exercised. What are the reasons ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The reasons are that if a non-official is recommended, and the Government considers that he is an eligible man belonging to the depressed classes, Government would very gladly nominate him.

WELL BORING MACHINES.

*Mr. G. B. TRIVEDI (Thana District): Will Government be pleased to state how many applications for well boring machines were received from (1) agriculturists and (2) from private owners of bungalows in the Thana district during the last three years ? How many of these were attended to and in what places, and how many of them were of class 1 and how many of class 2 ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: During the last three years 168 applications were received as under :—

| | | |
|---|---|---|
| (1) Agriculturists | .. .. | 112 |
| (2) Private owners of bungalows | .. .. | 56 |
| | | 168 |

*This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

Sixty-eight applications were attended to, *viz.*, 18 for drinking purposes of private owners of bungalows and 50 for agricultural purposes, *vide* statement* attached.

SURU PLANTATION IN THANA.

† Mr. G. B. TRIVEDI (Thana District) : (*a*) Will the Government be pleased to state when the Suru (casuarina) plantation on the sea coast in Thana district was undertaken ?

(*b*) What is the total amount spent on it up to now ?

(*c*) What are the annual establishment and other charges ?

(*d*) What is its specific object ?

(*e*) What is the area of grazing land occupied by the plantation ?

The Honourable Dr. R. P. PARANJPYE : (*a*) Some of the plantations were started as far back as 1894 in Dahanu and Umbergaon talukas. The extension of these plantations began about seven years ago.

(*b*) The total amount spent up to 28th February 1922 is Rs. 32,026-4-0.

(*c*) The charge in the current year will come to Rs. 2,200 and in future years to Rs. 1,200 per annum if no extension is undertaken.

(*d*) Plantation on sandy land of trees yielding profit and erection of a screen to prevent sand from blowing over cultivated land and rendering it less fertile. A subsidiary object is provision of shade and camping grounds.

(*e*) 194 acres.

BUNGALOWS RENTED BY DEVELOPMENT DEPARTMENT.

Mr. G. B. TRIVEDI (Thana District) : With reference to my question‡ on this subject asked at the second session of 1922, will Government be pleased to state—

(*a*) What were Government's reasons for not taking advantage of the Rent Act in settling the rents of the three bungalows rented by the Development Department ?

(*b*) What steps were taken to ascertain whether suitable bungalows were available near the railway stations between Bandra and Andheri ?

The Honourable Sir CHIMANLAL SETALVAD : (*a*) As Government were not in possession of the bungalows they were not in a position to take advantage of the Act.

(*b*) Most careful enquiries were made, but it was not found possible to obtain other suitable bungalows.

UMRETH MUNICIPALITY.

Mr. G. B. TRIVEDI (Thana District) : With reference to my question‡ on this subject asked at the second session of 1922, will Government be pleased to state—

(*a*) The part that the mamlatdar of Anand played at the meeting of the Umreth municipality that was convened to elect the president ?

(*b*) Did he threaten to bring in police to arrest a member ?

(*c*) If so, what steps have Government taken to mark their disapproval of the conduct of the mamlatdar ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : (*a*) When at the meeting Mr. Chunilal Rasiklal assumed chairmanship without

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* *Vide* Appendix S.

† This question was asked at the meeting held in February 1922, when an ad *interim* reply was given.

‡ *Vide* Vol. VI, page 242.

proper election, confusion ensued, and as there was a likelihood of a breach of the peace the mamlatdar requested Mr. Chunilal to stop further proceedings. Mr. Chunilal ignored this request and began to write something in the proceedings book. The mamlatdar therefore called in the police sub-inspector to preserve order.

(*b*) and (*c*) No.

Mr. G. B. TRIVEDI : Is it usual to call in a police inspector to preserve order in a municipal meeting ?

The Honourable the PRESIDENT : That is debating. The answer implies it is usual to call in when a breach of the peace is feared. It is pure waste of time to ask that question.

Mr. G. B. TRIVEDI : In a municipal meeting ?

The Honourable the PRESIDENT : Anywhere.

Mr. G. B. TRIVEDI : Was there any disorder at the municipal meeting ?

The Honourable the PRESIDENT : Order, order.

Mr. G. B. TRIVEDI : I was suggesting there was no occasion.

The Honourable the PRESIDENT : You are not by a supplementary question to raise a debate in the form of questions by making suggestions. The answer already given is that the Chairman Mr. Chunilal Rasiklal began to do something which, in the opinion of the mamlatdar, was illegal, and calculated to disturb order of the peace, and therefore the policeman was called in. The answer is clear and you may ask any supplementary question arising out of that instead of suggesting anything.

Mr. G. B. TRIVEDI : Therefore, I ask my question, what was the strength of this municipal board ?

The Honourable the PRESIDENT : That does not arise out of the question and the answer. A supplementary question must arise out of the question, and if answered, out of the answer. Here you merely refer to Mr. Chunilal Rasiklal and the mamlatdar. Now you go to the question of other members of the board, their strength and so on. That is not a supplementary question. I do not know where you will end.

Mr. G. B. TRIVEDI : Was there a breach of the peace at this municipal meeting ?

The Honourable the PRESIDENT : Mr. Trivedi, I am sorry that you do not take my hint. The answer given shows there was in the opinion of the mamlatdar.

Mr. G. B. TRIVEDI : If Government do not give information, what can I do?

The Honourable the PRESIDENT : I have nothing to do with the question whether the Government's reply is satisfactory or not. Your question is : " Was there a breach of the peace ?" I have already called your attention to the suggestion in the answer, that the chairman did something which the mamlatdar thought was calculated to provoke a breach of the peace and that therefore the police inspector was called in. Now, that ought to suffice for your purpose to raise a debate if you like, but in the form of questions and answers you cannot go into an argument, and I hope, Mr. Trivedi, you will respond to my appeal not to raise an argument but to make use of the answers in a debate on some proper occasion, as for instance on the budget debate.

Mr. G. B. TRIVEDI : Does Government consider writing in the proceedings book by the president a disorderly conduct ?

The Honourable Khan Bahadur SHIAKH GHULAM HUSSAIN: When he is not properly elected.

The Honourable the PRESIDENT: Order, order. That is a matter of opinion.

SUBSIDY TO THE DISTRICT LOCAL BOARD, THANA.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will Government be pleased to state whether they have granted the request of the district local board, Thana, contained in their representation dated 26th June 1922 for a subsidy of Rs. 5,600 as prayed for in paragraph 20 of the representation ?

(*b*) If not, what are their reasons for rejecting that request ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: (*a*) The request has not been granted.

(*b*) The claim was based on a misunderstanding of the provisions of the Bombay Tolls Act of 1875.

NON-OFFICIAL VISITORS' COMMITTEE FOR THE COMMON PRISON AND HOUSE OF CORRECTION, BOMBAY.

Mr. G. B. TRIVEDI (Thana District): Will Government be pleased to state their reasons for making distinction in the matter of applying the terms Mr. and Esqr. to the names of Indian and European members of the non-official visitors' committee appointed in connection with His Majesty's Common Prison and House of Correction, Bombay, as per their Resolution No. 1100-D, Home Department ?

The Honourable Mr. M. H. W. HAYWARD: The variation was due to a clerical error which will be corrected in future notifications.

INDIAN NEWS AGENCY.

Mr. G. B. TRIVEDI (Thana District): Will Government be pleased to state (*a*) who are the proprietors of the Indian News Agency ? (*b*) What is the total annual amount paid to that Agency by Government for the last three years, as also the amount budgeted for this year ? (*c*) Is the amount paid in one lump sum or is it paid in different sums by different departments; if so, will Government be pleased to give details ? (*d*) What is the nature of the service done by the Agency to different departments ?

The Honourable Sir CHIMANLAL SETALVAD: (*a*) The Eastern News Agency, Limited, Delhi.

| | | Rs. |
|---|---|---|
| (*b*) | 1919-20 .. .. | 1,800 |
| | 1920-21 .. .. | 2,000 |
| | 1921-22 .. .. | 3,000 |
| | 1922-23 .. .. | 3,000 |

(*c*) Government subscribe for eight copies of Indian News Agency telegrams. The minimum amount of subscription is Rs. 250 per mensem for 8 copies and is paid in equal proportion from the contingent grants of the officers concerned.

(*d*) Copies of the telegrams are supplied to the officers concerned to give them immediate news of the occurrence of events of importance and to enable them to contradict false and malicious rumours.

NEWSPAPERS.

Mr. G. B. TRIVEDI (Thana District): Will Government be pleased to state what newspapers were subscribed to and how many copies thereof, out of the amount of Rs. 2,400 provided for this purpose under contingencies in the Separate Department last year?

The Honourable Mr. LAWRENCE: A statement* is laid on the Council table.

TIMBER FOR DEVELOPMENT DEPARTMENT.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will Government be pleased to state whether the Bombay Development Directorate had indented for a very large quantity of timber from the Pacific coast through a local European firm?

(*b*) If so, what was the quantity so ordered and what was the price c. i. f. Bombay?

(*c*) Before the timber was so indented what attempt was made to find out whether timber of any local varieties suitable for the purpose was available in India proper and Burma?

The Honourable Sir CHIMANLAL SETALVAD: (*a*) Twelve hundred tons of Oregon pine timber were so ordered.

(*b*) The quantity was as stated and its value c. i. f. Bombay was about Rs. 1,64,500.

(*c*) Attempts were made to get suitable local timber but that forthcoming was found entirely unsuitable.

BOMBAY PROVINCIAL CONFERENCE OF LIBERALS.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will Government be pleased to state whether the Indian Members of the Council of the Bombay Government had sought and obtained permission to participate in the deliberations of the Bombay Provincial Conference of Liberals held in Bombay early in May last?

(*b*) If so, under what rules was such permission given?

The Honourable Sir CHIMANLAL SETALVAD: A reference is requested to the reply given to clause (*a*) of Mr. Gupte's question on the subject at the last meeting.

PURCHASE OF SAFES BY GOVERNMENT.

Mr. G. B. TRIVEDI (Thana District): (*a*) With reference to the statement made by the Finance Member on Tuesday, the 31st July last, in the Bombay Legislative Council, with regard to the purchase of the safes manufactured by Messrs. Godrej and Boyce, will Government be pleased to lay the circulars issued by them in the matter on the table of the Council?

(*b*) Is it not a fact that some orders for safes have since been placed with Messrs. Godrej and Boyce?

(*c*) Is it not a fact that the donation by this firm to the Tilak Swaraj Fund was ear-marked for the work of amelioration of depressed classes and temperance work?

(*d*) Have Government placed any other Indian safe manufacturer on their list of suppliers, in place of Messrs. Godrej and Boyce?

* *Vide* appendix T.

The Honourable Mr. H. S. LAWRENCE: (*a*) The circulars referred to were confidential.

(*b*) Government have no information to this effect.

(*c*) Government have not seen any published accounts of the Tilak Swaraj Fund and are therefore unable to form an opinion.

(*d*) There is no such list, but no orders have been issued prohibiting dealings with any other Indian firm of safe manufacturers.

Mr. G. B. TRIVEDI: Will not Government get the information asked for in my question (*c*) from the source that supplied Government the information that this firm had given a donation ?

The Honourable Mr. H. S. LAWRENCE: I have nothing to add to the answer.

### EDUCATIONAL SCHEME.

Mr. G. B. TRIVEDI (Thana District): Will Government be pleased to lay on the Council table the scheme which the Education Minister, while speaking at the Deccan Sabha, Poona, on June 23rd, 1921, said he had prepared, and " which would make it worth while of the school master to use his personal influence with the guardians of the pupils and persuade them to continue him there " ?

(*b*) Will they also state in how many places it has been put into force, and

(*c*) with what results ?

The Honourable Dr. R. P. PARANJPYE: The scheme was referred to the departmental officers as stated in the speech and after considering their criticisms the general lines on which it should proceed have been settled but the details have still to be worked out. No provision for it exists in the current year's budget.

### VERNACULAR LITERATURE FOR ADVANCED STUDY.

Mr. G. B. TRIVEDI (Thana District): Will Government be pleased to state what steps if any they have taken for " an adequate supply of literature in the vernaculars which can be used for fairly advanced study " to which the Education Minister referred in his speech at the Deccan Sabha on June 23rd, 1921 ?

The Honourable Dr. R. P. PARANJPYE: A detailed scheme was drawn up, and a provision of Rs. 25,000 was proposed to be made in the current year's budget, but owing to the imperative need for economy the provision had to be omitted.

### POONA MUNICIPALITY'S ADDRESS TO HAKIM AJMAL KHAN AND PANDIT MOTILAL NEHRU.

Mr. G. B. TRIVEDI (Thana District): (*a*) Is it not a fact that the sum of Rs. 500 unanimously voted by the Poona city municipality for expenses in connection with the presentation of an address to Hakim Ajmal Khan and Pandit Motilal Nehru in the third week of July last was disallowed by the Commissioner ?

(*b*) If so, what were the grounds on which his disallowance was based ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The information is being obtained.

POONA MUNICIPAL ELECTION.

Mr. G. B. TRIVEDI (Thana District): (*a*) Are Government aware of the fact that an application to the Superintendent in charge Yeravda Jail asking him to allow Dr. V. D. Pathak undergoing imprisonment in the jail to sign his nomination paper in connection with his candidature for a Poona municipal election was refused ?

(*b*) If so, will Government be pleased to state the grounds for the Jail Superintendent's action ?

The Honourable Mr. M. H. W. HAYWARD: Yes.

The correspondence of prisoners is restricted to matters of a purely private and personal character.

SALARIES OF MUNICIPAL SCHOOL TEACHERS.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will Government be pleased to state whether their attention has been drawn to the complaints of the municipal school teachers of Dholera, Dhandhuka and Borsad municipalities that they have not received their salaries for several months ?

(*b*) Were other municipal servants paid regularly ?

(*c*) What steps have been taken to ensure regular payments to all servants by these municipalities ?

The Honourable Dr. R. P. PARANJPYE: (*a*) Yes.

(*b*) and (*c*) Enquiries are being made.

QUALIFICATION OF ASSISTANT TAXING MASTER.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will the Government be pleased to state the legal and educational qualifications of the present Assistant Taxing Master in the Bombay High Court ?

(*b*) Who were his predecessors in the past during the last 10 years and what were their qualifications ?

The Honourable Mr. M. H. W. HAYWARD: Information is being obtained.

REVENUE FROM PRIVATE FORESTS WORKED BY GOVERNMENT.

Rao Bahadur D. A. VICHARE (Ratnagiri District): (*a*) Will Government be pleased to say whether the private forests worked by Government under an agreement between the inamdar or landlords and Forest Department are paying any net revenue or working at a loss ?

(*b*) Is there any definite object in retaining such unassessed forest area under Government if it does not fetch a net income less than an average land assessment in the vicinity ?

The Honourable Dr. R. P. PARANJPYE: Information has been called for.

SERVICES OF "FASHE PARADHI".

2. Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to say whether the Agricultural Department has taken any step to utilise the services of "Fashe Paradhi" and to kill pigs and wild animals which are doing havoc to crops in the Ratnagiri district ?

The Honourable Dr. R. P. PARANJPYE: No. Government are awaiting the report of the committee they have appointed to consider the means of dealing with wild animals damaging crops.

NEGLECT TO INSPECT BANDHARAS AND NATURAL DRAINAGE.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to say whether the Agricultural Department has collected any data to show how many acres of good land has been washed away on account of neglecting the inspection of bandharas and natural drainages and to suggest means to check this loss in Ratnagiri district ?

The Honourable Dr. R. P. PARANJPYE : Information has been called for.

INSTRUCTIONS TO PREPARE MANURES.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to say whether the Agricultural Department has adopted any means to instruct villagers to prepare locally green manures, carbonised manures, dung and urine manures and some such local manures of local utility ?

The Honourable Dr. R. P. PARANJPYE : The Agricultural Department spreads information regarding manures by means of its propaganda staff and through leaflets and demonstrations.

ENCOURAGEMENT OF PLANTATION OF VALUABLE TIMBER.

Rao Bahadur D. A. VICHARE (Ratnagiri District): (*a*) Will Government be pleased to say whether the Agricultural Department has, with the help of the Co-operative Department, encouraged the plantation of valuable timber trees, oil seed trees, etc., as well as converting varkas land into rice fields with a view to assess such lands and increase the revenue of Government ?

(*b*) Will Government be pleased to say whether the Agricultural and Co-operative Departments have tried to utilise the services of presidents of district local boards and taluka local boards to organise such works ?

(*c*) If not, do they intend to try it as an experiment in a taluka, with a view to encourage local enterprises ?

The Honourable Dr. R. P. PARANJPYE : The answer to clauses (*a*), (*b*) and (*c*) is in the negative.

AGES OF STUDENTS IN PROFESSIONAL COLLEGES.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to say whether the ages of students admitted to professional colleges are verified from some reliable documents, or were assumed as true from the applicants' statements ?

The Honourable Dr. R. P. PARANJPYE : Inquiries are being made.

QUALIFICATION OF MR. KANITKAR WHILE ADMITTED IN ENGINEERING COLLEGE.

Rao Bahadur D. A. VICHARE (Ratnagiri District): (*a*) Will Government be pleased to say what was the qualification of Mr. Kanitkar, the son of Principal Kanitkar of the Fergusson College, when he was allowed admission in the Engineering College ?

(*b*) What was the number of marks he received in the First Year Arts and in what year he passed this test ?

The Honourable Dr. R. P. PARANJPYE: (*a*) and (*b*) Mr. Kanitkar passed the First Year Arts examination with an average of 78 per cent. marks in Mathematics and Physics and was in the opinion of the Principal of the College the best qualified student admitted to the Mechanical Engineering branch of the college in recent years.

ASSESSED AND UNASSESSED AREA IN RATNAGIRI DISTRICT.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to lay on the table the area of the Ratnagiri district under the following sub-heads:—

(*a*) Rabi and Bagait area assessed;
(*b*) Kharip area assessed;
(*c*) Unassessed culturable area;
(*d*) Unassessed unculturable area;
(*e*) Waste or kharaba area;
(*f*) Forest area;
(*g*) Unassessed Government area?

Will Government be pleased to lay on table the average assessment of rabi and kharip per acre?

The Honourable Sir IBRAHIM RAHIMTOOLA: Information has been called for.

DONATION FROM WESTERN INDIA TURF CLUB.

9. Rao Bahadur D. A. VICHARE (Ratnagiri District): The annual report of Western India Turf Club for the year 1921 gives an item under expenditure, Donations, Government for horse breeding in India.

Will Government be pleased to say how this amount is credited?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The Government of Bombay have not received and are not aware of any such donation.

*Presentation of Petitions.*

Dr. K. E. DADACHANJI (Bombay City, South): Sir, on behalf of the Land Holders' Association, Bombay, I beg to present their memorial in connection with the Rent Act.

The Honourable the PRESIDENT: You have to give a brief substance of the memorial in accordance with my ruling.

Dr. K. E. DADACHANJI: Sir, the Landlords' Association say that economically the Act is not sound. It causes great hardship to landlords, and, Sir, they urge that this Act will not encourage the building of new houses in the city as long as this Act remains. There will be always scarcity of houses, but if this Act is repealed, according to the principle of supply and demand things will come to an equal level. This is, Sir, the substance of the memorial. I request, Sir, on their behalf that the memorial may be placed on the table.

Petition ordered to be laid on the table.

Dr. K. E. DADACHANJI: Sir, on behalf of the Zoroastrian Association I request that their petition be placed on the table. This petition states that the association has got certain buildings on charitable and on some similar basis and in accordance with their rules they have entered into an arrangement with their tenants that when their conditions improve they should vacate

[Dr. K. E. Dadachanji]

the premises and make room for those who are really in need. Now since the passing of this Act a good many of their tenants who really ought to make room for people who are really in need have refused to vacate. The association have fought out the cases in the Small Causes Court and in the High Court who have refused them redress because the tenants take shelter under the Rent Act. For instance one tenant who used to get Rs. 20 when he occupied the premises is now getting Rs. 400, and still he does not vacate the premises. A suit was filed against him in the Court of Small Causes who refused to hear that suit. The case was then taken to the High Court who decided that under the Rent Act the tenant cannot be forced to vacate the premises. The association desires that all these facts stated in their petition should be taken into consideration.

Petition ordered to be laid on the table.

The Honourable the PRESIDENT: The importance of allowing these petitions to be placed on the table lies in the fact that they will be referred to the select committee if any select committee is appointed with reference to the Rent Act Amending Bill.

I am glad to inform the House that the committee appointed by me to report on the question of the Council Library has submitted its report and now I am taking action upon their recommendations. I have accepted almost all their suggestions and they will be printed and circulated amongst honourable members. In the meantime I have to announce that I have appointed the following Standing Library Committee :—

The Honourable Mr. M. H. W. Hayward, Mr. M. A. Havelivala, Mr. B. G. Pahalajani, Mr. C. M. Gandhi, and Rao Bahadur G. K. Chitale and the Secretary to Legislative Council *ex-officio*.

The Chairman and the Secretary will be elected by the committee. I have not included the Deputy President in the committee for the special reason that in my absence he shall have to act as the controlling authority and I do not wish to place him in a position which may lead to conflict between the two duties.

## LOCAL BOARDS BILL (BILL No. XVI of 1922).

(Further consideration of the first reading resumed.)

The Honourable the PRESIDENT: In accordance with the promise, I have to give my ruling on the points that were raised at the last sitting just before the adjournment.

As to the franchise clauses of the bill and the principle involved, first this bill as its *Title* shows, seeks to consolidate and amend the existing Act or Acts relating to local boards. As the rule is that the principle of a bill should be gathered from its title, and its purpose mentioned in the statement of objects and reasons the principle of this bill is the principle of the existing Act or Acts relating to local boards which this bill purports to amend. It follows that the franchise clauses in the existing Act or Acts relating to local boards are involved as much as the clauses of this bill in the discussion of its principle on the first reading. Secondly, several honourable members have discussed the question of those franchise clauses in the existing Act or Acts relating to the local boards as a matter of principle during the debate at this

[The President]

first reading, and have invited my ruling on the point. Therefore it is my duty to rule that if the Council adopts the first reading of this bill, the Council will have affirmed the principle and scope of the bill so as to include the whole question of the franchise clauses of the existing Act or Acts relating to local boards and leave that question to be dealt with by the select committee and subsequently by the Council when the bill comes to be read a second time.

This conclusion to which I have come is based on the ruling of Mr. Speaker in the House of Commons that in deciding the scope and principle of a bill as affirmed at its second reading in that House (equivalent to our first reading in this Council) the Chair both in the House itself and in a select committee should pay due regard to the *Title* of the bill, the conditions of the debate, the points raised at that reading and the suggestions then made and dealt with by Mr. Speaker.

Then there is the question of communal representation as regards which I have already ruled that it may be dealt with as a matter of detail in the select committee and afterwards at the second reading. But I should like to give a warning. Should this bill pass the first reading and a select committee be appointed it will be for the chairman of that committee, to have a firm hold on the point of order to which I now beg to draw the attention of this Council. That point relates to the principle of what is well known in the House of Commons as the rule of diminishing amendments. The rule of that principle is that it is not possible to defeat a bill by a series of diminishing proposals in the form of a series of amendments. Where a clause in a bill puts in general words, you cannot whittle those words away by a series of exceptions to them in the form of amendments. This bill as to local boards lays down a general electorate or a general rule in clause 6 and then makes one exception to it by constituting Mahomedans into a separate constituency. Whether any further exceptions can be made to that general rule after the first reading is a question over which the Chair has to exercise its discretion so as to see that the general rule does not become the exception and the exception becomes the general rule. That is what is called the principle of diminishing amendments; that is, having laid down a general rule, namely, a general electorate and grafted on it an exception such as that of a Mahomedan constituency, carved out of the general rule, you cannot go on carving out by means of further amendments a number of separate constituencies so as to reduce the general constituency or electorate to a shadow and make it illusory because that has the effect of negativing the main principles of the bill.

I am merely mentioning the general rule. It will be for the chairman of the select committee to consider and apply it if necessary in the first instance and afterwards for the Chair in this Council when the bill comes to be read a second time, with due regard to the scope and principle of the bill affirmed at the first reading.

Rao Saheb HARILAL D. DESAI (Ahmedabad City): Sir, there are in this bill several provisions which, though of vital importance, are, in the way in which they have been put, objectionable. In the first place, I would refer to the question of franchise. The present Act gives franchise to the landed class, the propertied class, and also to the intelligentsia. The bill, however, only gives at present a franchise to the landed class either holding land with an assessable value of Rs. 8 for taluka local boards or Rs. 32 for district local boards, and the other franchise, which is provided for, is one which cannot immediately

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be exercised—I mean the payment of taxes imposed by the local board. So long, therefore, as the local boards do not impose any taxes, the propertied class would stand disfranchised and would not be in a position to exercise the franchise which they exercise at present. Of course, the inamdars, who enjoy the franchise under the present Act, are disfranchised as such, but they will continue to have the franchise under the general electorate. Consequently, they are not altogether disfranchised, whereas the propertied class has been altogether disfranchised. I have a serious objection to that part of the provisions in this bill.

Then, I would like to refer in this connection to one point referred to by the Honourable Minister. In his opening remarks he took credit for giving votes to women and also for qualifying them to be elected as members. The present Local Boards Act, however, did not disqualify women to vote. The Honourable Minister was under an impression that they were disqualified both to vote as well as to become members. But under section 11 of the present Local Boards Act, which relates only to disqualification for being elected as members, the disqualification is there for females. But under section 19 of the Local Boards Act, which refers to qualification to vote, there is no bar of sex, and over and above that, I would also make a reference to.....

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Will you please read out the sections? I contradict your statement.

Rao Saheb HARILAL D. DESAI: Over and above the reference to sections 11 and 19, which the Honourable Minister wants me to read out, I would refer also to the note of Mr. Cumming in his Local Boards Manual. Section 19 runs thus:

"No person who is less than twenty-one years of age shall be entitled to have his name entered in the said List No. II."

Now, here the disqualification is with reference to the age, while in section 11, which refers only to the disqualification for membership, it is stated:

"No female and no person who is less than twenty-one years of age may be a member of a local board."

So two different disqualifications were provided for two different functions, and the note at page 31 of Mr. Cumming's Local Boards Manual says:

"Females are not qualified to be elected, but they are not disqualified as females from voting."

The disqualification of females in section 19 was struck out when the bill, which became an Act in 1884, was under discussion by the Legislative Council, and even under section 11 there is a note at page 18 in Cumming's Local Boards Manual, which reads:

"Females are not qualified to be elected but they are qualified to vote."

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Will you read section 10?

Rao Saheb HARILAL D. DESAI: Yes, I am quite ready to read it. Section 10 says:

"Unless disqualified on any of the grounds set forth in the next following section and unless disqualified under section 25 or section 25-A or under any other law for the time being in force, the following persons shall be entitled to have their names entered in the List No. I, to be prepared as hereinafter provided, qualifying them to be elected under section 6."

and so on. So this refers to persons who are to be brought under the list as being qualified to be elected as members. But section 19 only provides for

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disqualification to vote, and I know as the vice-president of the Ahmedabad district local board and also with reference to the other local boards whose voting lists I have seen, that both in municipalities and local boards women do possess the right to vote, and it was the late Council which passed a resolution for removing the sex bar to become members in the case of women as regards the Bombay corporation. The resolution was moved by the honourable member from Bijapur and it was passed by this House. Consequently, with reference to this I state that women did enjoy the right to vote all along, and of course the Honourable Minister has the credit of removing the sex bar to their being members in the present bill.

Now, with reference to constituencies, the question of communal constituencies is one which I regard as very objectionable. I believe that in these days there should be a movement towards solidarity rather than towards any cleavage between the two communities. If there is a clashing of interests between any particular sections, then there may be some justification for providing for a communal electorate, but, as all the honourable members do know, the functions of a local board mainly relate to roads and buildings, and as regards education separate provision is being made and with reference to roads, if a road is in bad repair, then whether one is a Mahomedan or a non-Mahomedan, he is likely to be equally affected. So also in the case of buildings. When the bill provides for a school board and separate administration with reference to education, it may be said that there is no likelihood of any clashing of interests. When that division is made, then what remains is what appertains, according to the provisions of this bill, to the administration of the local board proper. There is no likelihood of any clashing of interests, and so far as my experience goes with reference to the Ahmedabad collectorate, I can say that I have not noticed any clashing of interests between the two communities.

In 1915, as the honourable members are aware, there was the Lawrence Committee appointed and that committee reported on its investigations. With reference to the report of that committee, there was a dissenting minute by Rao Bahadur Sathe and Mr. V. J. Patel and several official witnesses were examined with reference to the question of communal electorates.

(At this stage the Honourable the President withdrew and Dr. K. E. Dadachanji occupied the chair.)

This dissenting minute, which appears on page 35 of that report, reads :—

> Out of the witnesses, official and non-official, consulted, very few favour the principle of communal representation. It is at the same time significant to note that almost all the Collectors and all Assistant Collectors of the Presidency proper have emphatically expressed their opinion against communal representation. These officers are in constant touch with the people of their districts and are eminently fitted from their positions to know the needs and requirements of the public living in their districts. The unanimous opinion of such officers is entitled to great weight and the committee was not justified in setting aside such a strong body of official opinion which is not open to the usual criticism of being biassed or one-sided. Government have also perceived the impracticability of arranging to give separate representation to different creeds and communities, *vide* G. L. No. 7273, G. D., dated 10th October 1913. The situation has not certainly changed since then. A similar view has been expressed by Government of Bombay in their letter to Government of India No. 1768, G. D. date 26th March 1908, paragraphs 13 and 22. The goal must be to link different races of India in bonds of union and brotherhood, and Government, at any rate, should not take any step or adopt a system which will crystallise and accentuate the sectional and sectarian differences which already tend to retard progress in this great country. Moreover, election by communities demoralises the people and necessarily makes their vision narrow.

(At this stage the Honourable the President resumed the chair.)

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They also refer with approval to the remarks of His Excellency Lord Hardinge in a speech which he delivered in his reply to the Muslim League which waited upon him. Even in Government of India Resolution No. 41 dated 16th May 1918, in paragraph 5, they make reference to this subject and they say :

"As regards the special representation of minorities where this is necessary, the Government of India would prefer that this should be effected by retaining the practice of nomination rather than by introducing some system of communal or proportional representation."

This was the opinion which was expressed by the Government of India in 1918 and I venture to say that even if we examine the question from the standpoint of there being a cleavage between the two communities, what is the effect of a separate communal representation if there is a cleavage ? This separately represented community would, being in a minority, always continue to be so but if both the communities were understanding each other and trying to help each other's needs without there being any communal representation, there would not be any further cleavage, which may be regarded as very fortunate.

The third subject with which the present bill deals is the administrative machinery. With reference to that, the present Act provides for district local boards as well as the taluka local boards. This question was investigated by the Government of Bombay. In 1917 a memorandum was addressed by Mr. Martin to the district local boards as well as to the Commissioners and the reference was :—

"As regards taluka boards, the chief issue is whether these are required at all or not, especially if punchayats are established. It is pointed out that their disappearance would be facilitated by or necessitate an increased number of members of the district boards and that these larger boards would have to work largely through a standing committee."

And in the printed note which was circulated on this subject for opinion and to which I know Sir George Curtis was a party, he felt keenly that these taluka local boards were a stumbling block to the proper administration of the district by the district local boards. There certain alternative systems were considered and the alternatives are :—

(1) The abolition of taluka local boards and the concentration of such powers as cannot be given to punchayats in the district boards as in the United Provinces and the Punjab and also to a large extent in practice in Bengal and Bihar and Orissa.

(2) Abolition of the district local boards, and the performance of local self-government work through sub-district or taluka boards, and

(3) The Madras system of the district and sub-district boards, the latter having separate revenues and independent duties.

Then with reference to the taluka local boards, there is a certain passage which is very important :—

The first system, namely, the abolition of the taluka board, in which the taluka boards would disappear, would seem feasible in the conditions of this Presidency only if accompanied by a large increase in numbers in the district board, with taluka committees made up mainly of the local members of the board and a standing committee vested with considerable powers. The area to be covered makes it impossible for members to be in touch with the tracts or populations they represent or to know and put forward their wants and claims if the board is not considerably larger than at present. Still less is it possible to supervise or check work going on or get any work done if each member has, as his constituency, an area at all approaching that of the taluka—the present constituency of a district board member. Further the geographical factor and in some districts difficulties of communication make it impossible for the full district board to meet frequently or to dispose without delay of the many questions and the considerable routine business which must arise in the large area and wide sphere of work for which the board would be responsible. A small standing committee for this purpose would seem necessary.

A district of eight talukas might have a membership of 60 of whom 40 would be elected and 20 nominated. This would permit of taluka committees of a strength of 5 to 7 district

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board members, to whom at least one ex-officio member, the mamlatdar, should be added. The full district board would probably meet as at present two, three or at most four times a year, but a standing committee of say 12 members might meet once a month or as often as required.

Then we have the functions. There are a few lines which I will read :—

The taluka committee would be an inspecting and supervising rather than an administrative body. It would watch the working of local board institutions or the execution of works in its area, put forward the claims of the taluka when budgets are being prepared and generally represent its wants. The dual functions of member of the district council and of the taluka committee would, it is possible, attract the best material to the boards and invest the position with an importance and interest supposed to be lacking in the present taluka boards.....

The Honourable the PRESIDENT : I am afraid the honourable member, instead of giving his own views, is reading long quotations from other people's reports.

Rao Saheb HARILAL D. DESAI : I have ventured to quote from this simply because it was a memorandum issued by Government.

The Honourable the PRESIDENT : I dare say it is a valuable document, but reading long quotations is not in order.

Rao Saheb HARILAL D. DESAI : Then, Sir, it was also urged that the disappearance of the taluka local boards would avoid duplication of staff overlapping of functions and unnecessary expense. At present, if we retain both the district local boards as well as the taluka local boards, a staff more than at present would be necessary for the taluka local boards. At present they retain a clerk, and there have been complaints that one clerk is not enough. Under the present bill, it may be that every taluka board may have to retain a secretary, and even under the present system perhaps each taluka board spends about Rs. 2,000 a year on the staff. With the increase of the number of members and the payment of travelling allowances to members, one can imagine what it would cost if we were to have an enlarged district local board, and, at the same time taluka local boards. I therefore submit that with the district local board constituted on a basis of representation according to population, and with the formation of taluka committees from among the members of the district local board residing within the taluka, whether elected or nominated, there would be the necessary element for the purpose of giving information to the district board and at the same time to supervise its work in the taluka, and duplication of expense, machinery and staff would be avoided. That is most desirable in the present state of the resources of the local boards.

Then, Sir, the third subject is with reference to the duties of the boards. One of the provisions in the bill lays it down to be the obligatory duty of the district local board to make adequate provision for certain things. When the District Local Boards Act of 1884 as well as the Municipal Act of 1884, were enacted, in both those Acts, in the sections thereof which related to obligatory duties, the word 'adequate' was used ; but when the District Municipal Act was amended in 1901, the word was changed to 'reasonable', and the words put were 'that it was the duty of the boards to make reasonable provision.' But in the present bill the word 'adequate' is retained. When however certain duties are specifically imposed upon district local boards, and when Government want to retain to themselves the power of stating what should be the necessary quota which the district local board ought to provide out of its expenditure for education, then, Sir, it is necessary that the word should be 'reasonable' rather than 'adequate'. Otherwise, it would be putting the local boards to great expense.

The Honourable the PRESIDENT : May I take the liberty of suggesting to the honourable member that he is now dealing with particular provisions of the bill ? That is entirely a matter for the select committee and the second reading. There is no question of any principle of the bill involved in it.

Rao Saheb HARILAL D. DESAI : I bow to your ruling, Sir. It was an important matter, and therefore I referred to it.

The Honourable the PRESIDENT : I dare say it is a very important matter but not relating to this first reading debate.

Rao Saheb HARILAL D. DESAI : Then, the bill provides for the district local board maintaining training schools which are certainly a part of higher education. Now, while provision is made in the bill for having a school board for the purpose of the schools, the provision about obligatory duties does not provide for investing the local board with powers of administration, management, or control. While under section 28 of the Municipal Act, the town as well as city municipalities have powers of management, control and administration with reference to the schools in their areas, in the bill, as it is at present framed, no powers are given with regard to the management and administration of schools to the local boards. That is a defect which appears to me to be a very serious one, and which will have to be considered.

Then, further, with reference to the obligatory duties, in the present Acs as well as in the present bill, there are two—one providing for training schoolt and the other for making provision for vaccination which would be expensive. But the bill imposes a further duty, namely that of providing for the registration of births and deaths. Now, my honourable friend Rao Saheb Dadubhai Desai has referred to the question of the registration of births and deaths. If this duty were thrown upon the district local boards, a duty which is being done by the patels at present without any expenditure at all, it would cost an amount of money. With reference to the other two obligatory duties, namely, training schools and vaccination, although the duties are in the Act and they have been translated into the present bill, I believe that the boards are not able to do much in that direction, and until their resources are put upon a satisfactory basis, it would be very difficult for them to do anything more than they do at present in that regard. With reference to that, I want to refer to the opinion of the Decentralisation Commission, which was of the opinion that even the duties as at present provided in the Local Boards Act are more than the local boards can meet, and they rather require to be lightened than increased. Under these circumstances, the addition of duties which cannot be effectively met is a matter which requires very serious consideration.

The Honourable the PRESIDENT : Are these duties obligatory ?

Rao Saheb HARILAL D. DESAI : Yes, Sir. They are obligatory.

With regard to the provisions in the bill with reference to school boards, it does not appear that the school boards which are going to be formed will be subject to the district local board. There will be, according to the present scheme, members from municipalities and members from outside. My submission is that the school boards under the district local boards ought to be on the same lines as the school committees under the District Municipal Act, and that they should be formed out of the members of the district local board. It may be that certain members from outside can be co-opted, but they should be under, and not independent of, the board altogether. There is one provision with reference to this matter, namely that persons experienced in education with be nominated on the board. I am unable to understand what my

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honourable friend means by persons experienced in education. Does he mean persons who are educated or persons who have served in the Educational Department? It may mean persons who have served in the Educational Department. What is the test of experience in education is a matter which has been left out. I think this is a very vague provision and requires to be made clear.

Then, with reference to the provision regarding public health committee, of course it is good in its own way, but without a proper machinery, all these provisions will be observed more in the non-performance than in anything else. When a district extends over several hundreds of miles and contains hundreds of villages, and when there is no machinery in the several villages to look after the orders or instructions of that committee, I fail to understand what good purpose will be served by simply transferring from the District Municipal Act provisions about sanitation to the Local Boards Act and then leaving the matter where it is. If only a health inspector or an officer of Public Health is to be appointed, he could work under the standing committee of the district local board rather than under a separate public health committee. Without having anything to do on account of want of machinery, and want of resources, I fear that these provisions also will be there without much good.

Then, one provision made in the bill appears to me to be rather out of the way. If any member of a board, whether district or taluka, misapplies money, he ought to be made personally liable for misapplication; but it is intended to make him liable for loss or waste also. In the case of making roads, culverts, etc., opinions may differ whether a certain amount of money is wasted or not or is lost or not lost, and this will give occasion for persons of factious temperament to maliciously pursue people who have been doing their duty. Such a provision is no safeguard but exposes people who would with a sense of responsibility discharge functions which the administration of a local board imposes. The matter is a questionable one, and it will lead to an amount of dispute by factious persons.

With reference, then, Sir, to the resources of the local boards which are called technically local funds, provision is made for the purpose of authorising Government to fix the quota which a local board ought necessarily to contribute towards education. But as to the assigning of any revenues from the provincial revenue, it is all discretionary and there is no provision made in the bill which may be obligatory on Government. The one anna cess at present yields to different districts a varying amount of revenue, and the share of expenses, if we only take the case of education, which the local boards contribute is about 15 per cent., whereas Government contribute about 85 per cent. roughly. Now the power is reserved by Government to fix the quota which the local board has to contribute, and in view of the desire for compulsory education the first step necessarily would be that every board will be required by Government to reach its one-third for maintaining schools on a voluntary basis, and when they are able to go so far, then and then only they will be called upon to consider the question of compulsory education. Then, let us take it that 33 and 66 per cent. is going to be the quota between Government and local boards eventually. At present the local boards contribute 15 per cent., whereas the balance comes from Government. In this connection, if we examine the provisions with reference to taxation, the difficulty of the situation would be clear to honourable members. The proposals about taxation are divisible under two heads. One

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is to raise the present cess to twice its present amount, and the second is the power to impose taxation.

Now, with reference to the one anna cess, I am afraid the Decentralisation Commission was against any increase in it. They have stated that further burdens on land do not deserve to be imposed. Even in the dissenting minute, Rao Bahadur Sathe and Mr. V. J. Patel were also of the same opinion. It was pointed out that it was not the item that should be first touched. But, let us consider the question from the standpoint that it was doubled in all the districts. Even then if you examined the quota of every local board towards education, even after it is doubled, I am afraid every board will have to find money to a very large extent, to reach that one-third proportion. I have just tried to work out how it will be, and what even on the voluntary basis, will be the position of each board, if Government were to say 'for a voluntary basis you must find your one-third quota.' Thana district will have to find Rs. 73,000, Ratnagiri Rs. 1,12,000, Nasik nearly one lakh of rupees, Kolaba Rs. 68,000, Ahmednagar Rs. 1,16,000, Sholapur Rs. 87,000, and Satara Rs. 1,28,000. In the southern districts Dharwar will have to find Rs. 1,80,000, Belgaum Rs. 1,35,000, Bijapur Rs. 1,12,000 for the purpose of maintaining schools on a voluntary basis. If the Government were to call upon each municipality under the power which they reserve to themselves, every municipality will have to find so much and even if every municipality doubled its cess, namely, from 4 pies to 8 pies, still it would have to find a large amount of money by extra taxation. That is going to be the situation on account of Government not committing themselves to any position with reference to their quota towards the expenses of schools maintained as at present on a voluntary basis. And if you consider the question of compulsory education, then that will be something very much more.

In this connection I would like to refer to one or two points. I would quote to you the instance of the Daskroi taluka in the Ahmedabad collectorate. The maximum dry crop rate in that taluka is Rs. 4-4-0 per acre, and the average assessment per acre comes to Rs. 4-3-1, *i. e.*, the cultivator nearly reaches the maximum rate on the average, and in some cases gives more than the maximum rate, Rs. 5-12-0 in some cases, and even Rs. 8-10-0 in others. That is, he pays a premium over the maximum rate. Now, if you were to examine in the same way the Ahmednagar district—and I may say that I have taken the figures from Mr. Roger's reports where he gives the revision figures, and even if there have been revisions thereafter, there could not have been an increase of more than 25 per cent,—Akola in Ahmednagar had an average assessment per acre of Re. 0-12-2 and Sangamner Re. 0-7-8. In the Khandesh district, in Bhusaval where the maximum was Rs. 2-4-0, the average assessment was Rs. 1-8-0. They have not reached the maximum. So that, Sangamner would be paying ½ anna cess per acre and Akola, if the assessment has been subsequently raised, will be paying 1 anna as cess. So that even if you were to duplicate the rate, in Ahmedabad in the Daskroi taluka, a cultivator who is now paying 4 annas on the average per acre will have to pay 8 annas, whereas in Ahmednagar the cultivator who now pays in one taluka ½ anna and in another taluka 1 anna, would be paying 1 anna and 2 annas if you doubled the rate. With reference to the Deccan districts, I say that even if the local cess were to be doubled, still they would not be able to make good their expenditure on education. My honourable friend from Nagar of course is known as a very public spirited gentleman and particularly praised for his great interest in local boards, but

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the position in which he finds himself every third year is that he has to go about with a hat in hand to capitalists outside in order to help that district. Now, I would like to put it to you whether his district, with all his eagerness for taxation, would be in a position to contribute by taxation, and by doubling the cess enough amount for meeting the expenditure on schools even on a voluntary basis would be forthcoming. I would like to be enlightened upon that subject. But I believe that if his eagerness is his own and not the eagerness of his constituents, then certainly this House would have to pause before taking his eagerness as the eagerness of his constituents. (Honourable Members : Hear, hear.)

Then, Sir, there is lastly the tax-collecting agency. The tax-collecting agency which has been provided for in this bill is practically a copy of the tax-collecting machinery in a municipal area. In a big municipal area like Ahmedabad, Surat or Poona, or in a city or town, it is very easy to serve bills, to issue notices, to serve notices of demand, and to take measures for recovery, but in a large area, where each district has villages to the extent of 600 to 900 and several miles of distances, how is the tax-collecting agency that has been copied from the District Municipal Act, likely to be serviceable without being burdensome and wasteful ? My humble view is that the cost of collection, if collection is to be made by a local board through a paid agency of its own, would devour the income altogether or would leave very little.

There are one or two further drawbacks in this bill. One is that, as in the case of the Municipal Act, it does not provide for quarterly sessions. There is no provision that there should be so many meetings in a year. There ought to be a provision that there should be at least quarterly meetings.

The Honourable the PRESIDENT : That is not a matter of principle but one of detail.

Rao Saheb HARILAL D. DESAI : I moved a resolution in the last council with reference to the account year for local boards as the ordinary financial year is inconvenient and as they are now in an awkward position in framing their budget before they know anything of the coming monsoon. I had proposed that it should be from August to July and Government had accepted it, but no provision seems to have been made in this bill in that direction.

The Honourable the PRESIDENT : Is that not a matter of administrative detail, and not legislation ?

Rao Saheb HARILAL D. DESAI : Well, I have referred to some matters which may be considered from one point of view as matters of administrative detail, but as you were good enough to rule that important points may be referred to for the purpose of the information of the select committee, I have done so.

The Honourable the PRESIDENT : Order, order. If that is a matter of administrative detail, as it appears to be, then however important, it is not a matter of principle for a first reading discussion. The question of the financial year, so far as my knowledge of legislation and precedents goes, has always been treated as a matter of administration and not legislation.

Rao Saheb HARILAL D. DESAI : It is provided here in this bill.

The Honourable the PRESIDENT : Is there anything in the bill about it ?

Rao Saheb HARILAL D. DESAI : Clause 83 is there.

The Honourable the PRESIDENT: It is a matter of detail in any case.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: It will be fixed by administrative orders: no date is fixed.

The Honourable the PRESIDENT: Well then, that settles the question. The question is still left for administrative orders, and the honourable member need not pursue that point as a matter of legislation.

Rao Saheb HARILAL D. DESAI: I have nothing more to add.

Rao Bahadur G. K. CHITALE (Ahmednagar District): I wish, Sir, to keep my promise to be within the limits of the first reading and do not wish to wander over the details. I hope I shall be able to keep it. Now, in the first instance, I welcome this measure as an advancement, though it may be, some of us have to criticise it from various standpoints. The point is this, that the present District Local Boards Act is very old, that it requires amendment and that as a result of this we have several amendments embodied in this bill. The principle that I take is that there is to be an advancement in every direction as far as possible. I wish to see that that object is achieved. For instance, at the apex of the Local Boards Act you have the district local boards in which all the boards' powers are centred. The taluka local boards rightly complain that they have no powers and have a very small fund to play with. As far as the District Local Boards' constitution is concerned, the district local boards at present are recruited from pocket constituencies. They are generally dealt with in this Act and are now broad based. Under the old Act the district local boards were constituted by the return of 10 or 12 members who were elected members from the several taluka local boards and the inamdars who have a constituency of about 30 to 50 members.

An Honourable Member: They number more than that.

Rao Bahadur G. K. CHITALE: I am absolutely accurate there. Now, as it is, these district boards are a filtered constituency; the basis of it, that is the taluka local boards, were formed mostly of members who were elected by the electorates, but these 10 or 12 good people were elected members to the district local boards on the analogy of our old councils. Now that constitution has been done away with and the present constitution is broadly based and I offer the Honourable Minister my own thanks for it. We want that both local bodies and the local councils shall be responsible to the voters themselves who pay the tax and, as a matter of fact, make the board responsible. The pocket constituencies therefore are done away with rightly, and I am putting it, Sir, to my honourable friends to say whether looked at from a practical point of view they will show me any district or constituency which does not answer the description of a pocket constituency; if they are able to show that, then they have a case, if not then on the general hypothesis of doing away with the pocket constituency they will have to suffer. Then again, I am not sure if many inamdars make it a grievance to show that they have lost their right. Looked at from the practical point of view, I put it to my inamdar friends whether they do or do not own lands on which they pay land revenue, which would qualify them to be elected to several boards. Both in the electorate and in the board they have to place themselves along with the other agriculturists and unless they wanted a privileged position, they will not be right in expecting a pocket constituency to look after their own interests; I think they will do better to be represented on democratic basis as leading agriculturists

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in general and holding that privileged place of inamdars they become the true landlords. So far therefore as these pocket constituencies are concerned, they are rightly done away with and the measure from that point of view is a better one. Having regard to the pocket constituency, you will find that instead of 150 voters exercising their rights on the district local boards on the present basis of constitution, you will have 10,000 to 15,000 voters in each district. 15,000 voters in each district is a broad based constituency on which any local board can safely wield a large amount of authority. Looked at from that point of view the measure is better. It is said—no doubt true—that at present we have one element only, namely, a non-Mahomedan constituency. The bill no doubt makes distinctions between the different communities. Now this matter about a separate Mahomedan constituency is a matter on which there is a great deal of difference of opinion but may I point out, Sir, one thing ? After all, we are agreed I think, that on principle communal representation is bad and let us stick to that principle. If my honourable friend the Minister has looked into this question, has explored all the other resources by which the aspirations of my Mahomedan friends cannot be achieved by creating multiple constituencies with cumulative voting and lumping in all Mahomedan voters or even by reservation of seats, then by all means have recourse to these. But I am not sure, whether by the lumping up together of the Mahomedan votes in any district in a multiple constiuency, it is not possible to get adequate representation of my Mahomedan friends ; because letting Khandesh alone there are many districts wherein Mahomedans are in a sufficient proportion—and we will not get only one or two but several constituencies. In another district, Sholapur you will find Mahomedans coming up to one-fifth—20⅛%—of the population, or, according to the voters, they would give them a voting strength. If that voting strength is pulled together and put in a constituency in which they will be put in majority, I think a way will be found out by which the nomination will be done away with and my Mahomedan friends will come in by direct election. I have put in that suggestion for the select committee. I am sure the result according to my own experience may answer the object in view. Perhaps it may not be possible to get them in one or two districts and in those districts you can find out other means. It is no doubt also true that nomination is a bad thing. It is useless to say, let Mahomedans come by nomination : if it is a bad process it is bad for all and therefore I am not for nomination. They have a right to nomination as an important minority but I do not think it is right to say that they have not got a separate interest. Looking at the question, so far as the vernacular education was concerned they insist that they shall have Urdu, but after all there is no doubt that they have different interests. They insist as you know and make it a point of grievance and of keenness that primary education must be given to them in Urdu, that all the teachers should be Urdu and that even the deputy inspectors should be Urdu. Now as a matter of fact, so long, at least for half a dozen years, their wishes have been respected. Whatever the previous orders were, they really fought even on such matters though they have not got elected representatives on the local boards. You can ask them to be so charitable that every constituency would look up from their point of view. I do not think therefore that a way cannot be found out in order to give them an adequate representation by election in proportion to their population and strength by pulling up and permitting a multiple constituency and then let us resort to this direct measure as a last resort. That is my suggestion. Let that matter therefore be looked into by the

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Honourable Minister in the select committee and let us have all the data worked up for the members in select committee.

Then I come to the other matters where you want the board which is self-contained, self-contained in the sense that it shall administer through its own officers all the departments which are given under its control. In other words, the present liberty is nothing else but an airy nothing. In all the departments, the Educational Department, the Medical Department, the Veterinary Department, or the Public Works Department and in all other departments, you are only responsible for signing the cheques. The department does the rest. Well, I do not find that this bill therein gives us much, for we are to be regulated by the rules. I might say without fear of contradiction that this Local Boards Act was in existence for the last 30 years and it was only in the last seven years that this Government shook its head rather seriously and gave us amplified powers by way of experiment. As the result of administrative orders, it has no doubt given us larger constituencies, larger powers, partly of non-official presidents, and so on. But they took really 30 long years to do all this. I have, therefore, a horror of leaving anything to the making of rules. This Council will, therefore, certainly be within its rights in seeing that the Act is as complete as possible and very little is left to the rule-making; or even if it is left to the rule-making, let that rule-making power be subject to the vote of this Council, so that we will have adequate safeguards whenever these rules are made to see that matters are arranged according to our angle of vision. No doubt, there is a decided change now. We have a popular Minister, but, after all, Government is run on certain grooved lines. The Honourable Minister naturally finds himself in that groove and it is very difficult for him to get out of it, because you find that if a certain groove is given to you of a particular height, you can only move in that groove up to that height; no more.

Then, as regards the school-board, I would like to discuss it when the primary education bill comes in for discussion, but in answer to the challenge which the Deputy President gave, I may say that I will accept it. I say that if the district local boards want all these powers which are to be self-contained and independent in everything, I do not think it is proper to say that the Government shall bear the greatest part of the expenditure. Well, he has appealed to me and challenged me to say how am I prepared to find the requisite quota even for this primary education. I assure him that if I am at the head of these affairs, I will accept very willingly the challenge to make good my promise. More than that I will not say at present. If you take into consideration the feeling of the people, you will find that all the people in the Central and Southern Divisions are anxious to have this primary education and, as a matter of fact, they are quite prepared to tax themselves. That is not my individual opinion. There was a different note struck in Gujarat. My friends are welcome to hold their views, but, as far as the Central and Southern Divisions are concerned, I would say that the Compulsory Education Committee was assured both in the Central and Southern Divisions that the people were prepared to tax themselves to any extent. Of course, when the time comes, we will test it. But, as far as I am concerned, I am prepared to say that we will find our quota; I am not afraid of it. I need not say anything more at present. When the question of primary education bill comes before us, we can say more.

Then, there is the matter of control, on which I wish to speak, and then the sources of taxation. I have said the sources of taxation is a matter more for the future. All this Council has to decide upon is this. Take up the old

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Local Boards Act. The district local board as a body has no power of taxation : absolutely none. An Act which was passed in 1869 imposed a local fund cess, which was transferred by the Local Boards Act to the local boards. But a part of the income was earmarked for education and the rest of it was made over to the local board. It was a small income. It is one thing to say that the local bodies shall have a certain source of taxes which are scheduled. But be it remembered that no district local board is called upon by this Act to put the whole schedule into operation without the consent of the voters in the district local board. It is left to the district local board to say what taxes it will use. And then again, you will find that taxation has to run another gauntlet, namely, you will have to get the support of both the local body and of Government. I shall have to ask both my constituency and the local body for support and I shall have to make out a very good case indeed, because I shall have to obtain the Government sanction. The Government sanction will not be given as a matter of course, because you know the machine. In all matters of local bodies, the Collectors and the Commissioners have to be consulted. They are no longer partisans of the local bodies and therefore I am absolutely sure that they will look at them with more critical eye now than they used to do before. Whatever the schedule of taxation will be, that taxation will be first imposed by the local body broad-based as it is and will have therefore to consider twice before it recommends unpopular taxes. My only regret is that this Local Boards Bill does not fix a particular number, either a number in proportion to the population or in proportion to the voting strength. It is necessary that a rule should be made that a particular district local board shall consist of so many members. Even in the case of the Government of India Act one of the first things decided was that this Council shall consist of a maximum number of 111 and all the constituencies were fixed within that number. Even under the Bombay Municipal Act we have a particular number fixed. It may be rather difficult to fix a number for a particular district. I recognise that comparisons may not be quite correct, but it is just possible to declare that every district local board shall have a minimum, say 2 for 100,000 population, or 4 or whatever number that may be, or whatever particular number in respect of the voting strength of, say, 1,000 voters. That will give you a basis at once. My Mahomedan friends and other communities and the minorities will have a grievance if the number is too small. For instance, take the present number of the Ahmednagar district local board. It has 19 members for a population of 900,000 on a voting strength of 15,000. We may perhaps not be able to provide for adequate representation of all the communities on all the boards which are considered to be important. And from that point of view, therefore, if it is possible to fix a number, I hope the select committee will do its best to do it, so that we shall know exactly where we are and we will also know how to bring in the minority constituencies, namely, my friends the depressed classes and Mahomedans or Christians or Parsis.

That was the third comment I had to make on the first reading of this bill. Then, before concluding, I must say that I am not satisfied with the control section in this bill. My point is this that originally there was something in making the Collectors and Commissioners the controlling heads of departments because they themselves underwent a training. You remember that under the old Act an Assistant Collector was usually the president of taluka local boards. He administered several taluka local boards. When he became

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the Collector, he also administered several district local boards. He had to provide for the budgets, look to their wants, and the rest. Now, as it would happen, all the Assistant Collectors and Collectors will be deprived of these powers. They will not have the training grounds, and I am afraid, therefore, that unless—on their own ground as Government used to say—unless you get a training, how is it possible for you to examine a particular case with that prudence and care which it is necessary to exercise ?

*After recess.*

The Honourable the PRESIDENT: Order, order.

Rao Bahadur G. K. CHITALE (Ahmednagar District): I was speaking, Sir, as regards this control and I have said what I had to say with respect to that.

I wish now to speak on one other point. It is this : you remember, Sir, that the Panchayats Act has been enacted and in several districts panchayats are being formed, and if they are formed in an appreciable number, this Council will have to consider how taluka boards would fit in along with the other machinery. It is just possible that in some advanced districts or in some special circumstances where perhaps the communications are not so good, it may be possible to have some method broadly speaking. To my mind there is no case now for the taluka boards. In the first place I am not sure whether you will find so many people for administering taluka boards on scanty funds and without independence and therefore the matter is to my mind an important one and may be looked into by the select committee in its proper perspective.

Then the fourth question on which I wish to address the House for a few minutes is this—what is the extent of powers ? You want independence ; how is that independence as a matter of fact to be administered or carried into practice if you have not got adequate machinery ? In the first place you have to do away with the departmental system. If the departmental system is to be done away with, the district board will have to be officered by properly experienced and trained men for several of the departments such as the engineering department, the educational department, the sanitary department and the medical department. These are all the four heads which will have to be officered. At present Government is spending a very large sum on ministering to the wants of the several people by having men on very high salaries and it will be for Government to consider whether people of the right stamp would not be put at the disposal of the district boards as administering officers, and in order that all the funds of the district boards may not be eaten away by the staff, to serve the purpose of both the Government and the district local board, it will also have to be considered by Government whether their servants cannot be put at the disposal of the district local boards. Let me give an illustration which will do away with many of the difficulties felt by some of my friends. It is asked how is sanitation of rural area to be looked after ? The Act says it will have public health committees. A public health committee consisting of certain members is surely a very small body to minister to the wants of a diffused area like a district consisting of several hundred square miles. What is done at present ? What is at present done is that these wants are supplied by the several departments of Government with their subordinate staff. If Government means to draw away this staff, save their pay and make the local board responsible for the sanitation, I think it will not be a step in the right direction.

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I hope that the Honourable Minister does not mean that; what he means is all the sanitary wants and all the defects, inasmuch as these boards have not got requisite powers needed for an adequate discharge of their functions. I hope the Honourable Minister will arm the local bodies with sufficient powers and that he will be in a position to give the requisite staff. The staff is there, is at present administering the boards; if any supplementary staff is needed, the local body may be asked to supply it. What I mean is this, that if all these several departments are to be administered, if these local bodies are to be independent as far as possible, then in that case the district local boards or these local bodies must be given the services of full-time, well qualified and trained medical officers, trained educational administering officers, trained engineers and perhaps at least veterinary administering officers, so that the whole staff will be looking after the work of the district local boards which will be properly administered by trained men and Government will not lose, because they are at present spending a very large amount. It is only a question of give and take and it depends upon the mood of Government, but in enacting an Act we have to be very careful in getting as independent powers as possible so that Government may not say that the Council has put its seal upon this Act and therefore the district boards or bodies are now in law responsible to administer all the duties that have been put upon them, either discretionary or otherwise. Looked at from that point of view, I do not think that the Honourable Minister means it. However, the wording is deficient in various particulars, in various clauses, and I hope that he will allow the select committee and also he will have such select committee as will be able to go over the whole Act to make it a sound measure from several points of view, and I am absolutely sure that this House will welcome the report of the select committee if after all it is found to answer the criticism which is so far administered in this House. I welcome the measure and congratulate the Honourable Minister for giving us an opportunity of looking into it and I hope members of the select committee will see that all the points of criticism that have been given voice to in this House will be given effect to as much as possible in presenting their report to the House.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, I rise to welcome this beneficent measure and to congratulate the Honourable Minister and Government on bringing forward this long-overdue bill and thus removing a reproach which has been levelled against the Government of Bombay. In offering my congratulations to Government, I include the names of the Honourable Mr. Lawrence and also Mr. Martin who contributed in no small degree by their reports in the initial stages which have enabled the Honourable Minister to give shape and form to this bill.

We have first to consider whether the defects found in the old Acts which have been working for the last 30 or 35 years have been remedied in the present bill. There is no doubt that this is a very liberal measure in giving an enlarged franchise, in the election of presidents and vice-presidents and making them free from the leading strings of official guidance, investing the boards with greater powers and furnishing means for developing education, sanitation and so on and in improving the financial resources of the board. I, therefore, hope that the Council will unanimously agree to refer this bill to the select committee, as it is a distinct improvement on the old Acts and it is a very wise measure.

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During the last thirty or thirty-five years that this Act has been in operation, we shall consider whether it has been successfully worked and whether it has done benefit to rural areas or whether it has not done so, and after arriving at this result, we must ascertain whether these defects have been remedied in the present bill. When we look into these defects, we find that there are two main causes which have not led to the success of the present Act. The finances of the boards have been very inelastic, and that is the main cause; the second cause is that the villages have not been recognised as units of local self-government administration. In the present bill, the finances have been made a little elastic, but the villages have not been included as units of local self-government administration. I have the experience of being associated with district local boards both as member and as president for the last fifteen years (as president for seven years and as member for fifteen years), and I find that the minor, small, poor villages take absolutely no interest in the district local boards. They contribute towards the revenues through the tax which they pay as the one anna cess; out of this 4 pies go for education, but these small villages have not got any schools, they have not got any roads, and have not even the barest amenities of life. It is therefore a matter of indifference to them whether it is a taluka local board or a district local board. This frame-work has not been touched in this bill, and I hope the select committee will take it into consideration. Unless and until the villages are made units as the first link in the path of local self-government, I believe any measure which is intended for the happiness and contentment of the rural areas will be partially or wholly a failure. We know several arguments will be advanced that the villages are small, that they cannot at present be made units of administration, and that they must wait. It will be also said that Government have recently introduced the Panchayat Act, and that the panchayats can send representatives if they like. But although the Panchayat Act has been passed, Government have not given the panchayats any encouragement. So far as the district of Broach is concerned, the Village Panchayat Act is very unpopular. Even the large villages do not want panchayats. They say "Why should we have panchayats? Our one anna cess is absorbed by the taluka and the district local boards. We have no rights, we have no drinking water, we have no roads, and we are left high and dry." Therefore, my suggestion is that the taluka local boards should go, and instead of that the villages should be made the units of the first link in the chain of local self-government. From times immemorial, the village has been recognised as the unit of administration. Eminent historians, writers and jurists, in regard to these time-honoured institutions, have admitted that the spirit of self-government even in the smallest villages, still exists. No doubt, it is in a dormant state, but the energy is still alive, and it is for the new bill to energise and magnetise this force, which will be very great in future in working their own salvation. This is a sort of anomaly, and further it affects 50 per cent. of the rural areas who have no voice in the administration of the local boards, and who are not benefited to the extent of the cess which they have to pay, and it is for the new bill to introduce some such measure by which they will be benefited.

The Honourable the PRESIDENT: Have the villages no part or lot in the local boards?

Sardar Khan Bahadur A. M. DALAL: I refer to the administration of the local funds and in the present bill they have nothing to do with it.

The Honourable the PRESIDENT: Are they simply pay-masters, and they do not get any share in the local boards administration ?

Sardar Khan Bahadur A. M. DALAL: I will develop this argument later on.

The Honourable the PRESIDENT: Under the present bill, what is made the unit of local board administration ?

Sardar Khan Bahadur A. M. DALAL: The talukas simply elect their own men; that is all.

The Honourable the PRESIDENT: Then your argument is that the districts and the talukas are given all the power and the people in the villages only pay the money. They pay the piper, but cannot call the tune.

Sardar Khan Bahadur A. M. DALAL: Yes, Sir.

The Honourable the PRESIDENT: Then, your argument is that you want the villages to be brought in. That affects the whole principle of the bill.

Sardar Khan Bahadur A. M. DALAL: This is the frame-work. It is the fundamental of the bill which should be touched, and if it is touched, and if the principle which I have enunciated is introduced in the present bill.....

The Honourable the PRESIDENT: Your argument comes to this: the Government measure at present before the House begins at the wrong end; it ought to begin at the other end, the right end, namely the villages. That raises the whole problem of local boards.

Sardar Khan Bahadur A. M. DALAL: Yes, Sir. Therefore, I say, revivify these time-honoured institutions and introduce that principle in the present bill.

The Honourable the PRESIDENT: I am informed that under the Village Panchayats Act, the villages are brought in.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: One village or a group of villages may have a panchayat.

Sardar Khan Bahadur A. M. DALAL: Against this argument my answer is this.

The Honourable the PRESIDENT: I have nothing to do with the merits of the question. I am only seeing whether your speech is addressed to the principle of the bill. If the villages, either under the Local Boards Act or the Panchayats Act, are brought into the administration of the local boards, then the whole of your argument as to the principle of the bill falls to the ground.

Sardar Khan Bahadur A. M. DALAL: Now that this opportunity has presented itself, it would be very wise on the part of the Honourable Member in charge of the bill and the select committee if they will take into consideration this important point.

As regards the introduction of the panchayats, there is no inducement for the villages to form themselves into panchayats. If in the Panchayats Act there was some such provision by which say one-fourth of the one anna cess which the villagers paid could be transferred to the panchayats, all these villagers would have gladly come in. There is no inducement for them. They say, "Why should we pay"?

Another evil arises out of the present Act. It has made the villages not self-reliant and independent to stand on their own legs. They are depending upon the generosity of the taluka boards. Even for the smallest service they have to look for outside help. This question was considered by the

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Lawrence Committee, and it says in that report:

"It is desirable, however, to make the contemplated panchayats when they are established the first link in the chain of local self-government administration. A system under which villages scramble for allotments from the scanty funds of the taluka local boards is calculated to undermine their sense of responsibility and villagers must be brought to recognise that they cannot expect their local wants to be satisfied without local effort and sacrifice. Very commonly people will not even contribute until they despair of the whole cost of an improvement being met from taluka local board funds or until their want is intolerably pressing. People can hardly be expected to do what some one else may do for them or pay when there is always a chance of some one else paying for them, if they are only sufficiently importunate."

Therefore, I say that the object and aim of the present bill should be to make villages self-contained units in the administration of local self-government of districts. It may be argued that if a village is too small, and if the village panchayat is to be introduced, it should be worked very cautiously. But we have had sufficient time, and we see in the villages public spirit. I do not see any reason why it should not be introduced in this way. If, however, the Council or the select committee, on sentimental grounds or for other reasons, wish to retain the taluka local boards, although in my opinion they ought to be abolished, I do not press for their abolition; they may remain as agents and supervise, but the machinery of the whole administration of the taluka boards should be done away with.

Next, the provision of appointing the school board has been introduced in this bill. It is a wise provision, I admit, because it will look only after education, but I fail to understand what the powers and functions of the school board will be. We do not understand how these boards will be organised, what are its functions, and what are the relative functions of the school board in respect of the district local board. It leaves to Government to frame rules with regard to these things instead of incorporating them in the bill itself.

Another important innovation is the introduction of the health committees, and it is a very wise provision that it has been included in the bill. But, as regards its working, I am afraid several gentlemen who have preceded me have very ably pointed out the inpracticability of their working. When we know that even big municipalities ere not yet able to carry out the rules and regulations for the sanitary requirements of big cities, and when mofussil municipalities very often break all these rules, how can you expect in a much more diffused area, comprising hundreds and thousands of villages, and extending over thousands of miles, proper supervision and control of the health of the rural areas? But if by legislation you introduce village panchayats in every village or in every group of villages, then these committees will supervise and to a small extent improve the condition of health in the villages. Otherwise, it appears to me that it will be a dead letter, just as it is in the small municipal areas of the mofussil.

Now, I come to finance, which is the crux of the whole question. As I said in the first part of my speech, the insufficient finance is the prime cause of the failure of this Act. This has been improved in the present bill and power has been given for imposing taxation. I welcome this power and the benefits which we will derive by this power, but as explained by my honourable friends, this is very small indeed, because the expense of collection in the rural areas will be out of all proportion to the income, and further the condition of rural areas can never be the same as in the city municipalities. If the Government had introduced provisions offering subventions and grants such as 'if you raise so much revenue, we will pay you so much', there will be some chance. In this Council I plead on behalf of the poor agriculturists. It is a fact which cannot be gainsaid that the burden of taxation on the poor is such that additional

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burdens cannot be imposed, and unless Government come forward generously with the same subventions and grants as they are giving now to encourage the boards for raising additional taxation, it will not be possible for villages to make any appreciable improvement in the government of their affairs. In this connection I agree with my colleagues in the Council that the district local boards should start a propaganda work to instruct their constituencies, that Government cannot pay for all their requirements, and that they must try to raise as much revenue as they can, and then ask Government for co-operation. There are two schools of thought: one wants that everything should be done by Government, and the other says that if you want to improve your amenities of life you will have to pay yourself. Both are wrong. There is a golden mean. The Government must pay as well as village people must contribute by taxation.

As regards the general administration, I believe there is no change in the new bill from the old bill, but in my opinion the time has arrived when we should make a departure and differentiate the deliberative functions of the board from the executive functions. It is too much to expect district boards, who are not experts, to look after the execution of works. The duties of the central board should be to lay down a certain policy, to frame the budget and to exercise general supervision, but the execution of works should be left to an executive body.

I, in pointing out the defects of the bill, ought to say with due deference to my Mahomedan friends that the element of communal representation introduced in this bill is, in my humble opinion, not advisable. The reason is this: it is one thing for this Council or the State Council or the Imperial Council for political expediency and for other reasons to lay down that separate constituencies might be created, but for the district board where the aim and object of Hindu, Mussalman or Parsi is only to ameliorate the condition of the rural villages, it is not right to perpetuate the old racial feelings of these two important sections of the community. And again, Sir, when in this Council even in the last sessions, the Council has set its seal by doing away with communal representation in the amendment of the Bombay Municipal Act, it is not wise to perpetuate that wrong, in this new measure. So far as my district is concerned, Mahomedans do not feel any need for it, as far as I know.

An Honourable Member: How do you know?

Sardar Khan Bahadur A. M. DALAL: My board consists of 15 Mahomedans and they are able and strong to stand on their own legs. If they manage the concern, I do not see why it should not be done in other districts.

In this bill no provision is made for the borrowing powers of the board. I know that there is some special Act by which the boards can ask the Government to lend, but I want particularly in the bill to introduce a section by which district local boards can borrow from the public. In the absence of that power to borrow, the Bombay Presidency district boards could not build their own railways: they failed because there was no power to borrow from the public and Government did not back them up in this enterprise. In Madras they are far ahead of us. They have got splendid narrow gauge railways which are valuable assets of these boards. If this policy had been adopted ten or fifteen years ago, I believe the Bombay Presidency boards would have at their back

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most valuable assets from which they could derive splendid revenues. In my district there is one narrow gauge railway for which the district board had been agitating for the last thirty or forty years. When the district board passed a resolution and forwarded it to the Commissioner—I carried it to the Commissioner—about fifteen or twenty years ago, he not only did not support it, but he ridiculed the idea of district boards taking loans and building their own railways. It is to the credit of the Honourable Leader of the House that when he was in charge of Local Self-Government I waited upon him at the Secretariat and complained about this matter and he said "you pass a resolution and send it to me and if the scheme is good, we will support it". But that is by sufferance, that is, a Minister might take one view or another but if it is prescribed in the Act, it will be a power in the hands of the boards.

And now, I have done, and my last request will be to the Honourable Minister in charge of this bill and the select committee which will be shortly appointed not to rush the bill, but to take the views of the district boards of the Presidency.

One function has been thrust on the boards under this new bill, and that is the registration of births and deaths. As contended by my honourable friends, the previous speakers, there is no machinery existing at present to do this work, and I believe it will be a failure, and I hope the Honourable Minister will be so kind as to delete that provision from the bill.

Now, I have done with this last remark, that this bill is the most comprehensive of all the measures passed during the last forty years. Some bills and some Acts might be in better lime-light, but as regards the happiness and prosperity of the eighty per cent. of this Presidency's population who are voiceless, you are going to bring them the benefits of peace and contentment by means of this bill and if this bill is passed into law and administered well and generously, I am sure we will rear up a very strong peasantry which will be at the back of loyalty and restfulness and contentment and we can laugh at revolutions and unrest. With these remarks I support the first reading of the bill.

Mr. C. M. GANDHI: (Surat City) Sir, I rise to address a few remarks on this question with a certain amount of diffidence, for I have not been able to consult the people who will be most affected by this bill. I am also afraid of uncharitable motives being attributed by others who do not take a similar view on this question. I am certainly, Sir, not enamoured of the extended powers which this bill is likely to give the boards, for extended powers mean extended liabilities, and unless and until those who are to meet those liabilities are consulted and give their opinion in favour of it, it will not be wise for any Government which is going to be a responsible Government to push on a legislation of this character. Owing to these extended powers definite duties have been thrown on us as regards public vaccination, registration of births and deaths and sanitary works and measures necessary for the public health, and linked with that is the duty to provide for compulsory primary education. Now, Sir, let us consider what are the liabilities which we are going to incur. I concede that if we are going to have wider amenities of life we must be prepared to pay for it but before we are able to induce the people to tax themselves, we must be in a position to talk to them and take them into our confidence. That has not been allowed to be done. The situation is this. Our total rural population is about 161 lakhs including Sind, and on a rough

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calculation I have been able to make, in order to provide for compulsory education we must find something like 320 lakhs of rupees. The total cost of education now to Government is about 71 lakhs.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: For primary education?

Mr. C. M. GANDHI: Yes, for rural areas. The total cost of local administration is 125 lakhs. So that we have to find about 54 lakhs for general administration of the district local boards on the present basis. In all therefore we have to find 374 lakhs, 54 lakhs for general administration and 320 lakhs for primary education. Government will contribute two-thirds of the cost of primary education, that is about 212 lakhs, and the rest, namely, 162 lakhs we have to find ourselves. Now the local rate is 22¼ lakhs. It may be doubled. It will then bring us 44 lakhs and a half, so that we have to find 218 lakhs for the compulsory primary education and for general administration of the local boards. Then consider the extended duties which are going to be imposed on us under this Act and see what provision is made by Government to help the local boards to meet their extended liabilities. I again concede that it is not possible for Government to supply money for all that we want. We are prepared to tax ourselves, but it is not easy to tax people who are already overburdened. We have to take them into our confidence and carry them with us. Now what is the provision that Government is going to make? When Government asks local authorities to set apart ⅓rd for education, let us see what definite proportion Government sets apart for local funds. Clause 74 of the bill merely says "all grants and assignments of revenues made by Government". Government asks us at least to find one-third, or one-half for education. Government is not prepared to tell us what assignment Government will be prepared to make out of the provincial revenues. My honourable friend the honourable member for Ahmednagar district said that we are going to have very liberal powers. Of course liberal powers to tax ourselves! Liberal powers for Nagar where there are two famines in every three years and there is nothing to be taxed! I say, Sir, that this measure is not liberal and the reason why I say so is this, that Government was giving us something like 84 per cent. towards education and other administration.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: No, not education and other administration.

Mr. C. M. GANDHI: How much for education?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Two-thirds.

Mr. C. M. GANDHI: Now Government is going to give us two-thirds for education and is asking us to find the rest of the money, and Government says that if we do not make adequate provision—and of what that adequate provision is, Government is left to be the sole judge—Government may call upon the local bodies to raise the necessary funds and if they do not, then they have the power to hold up the local boards as guilty of default and to place some officer in its place to perform the duty. The words are "may be compelled". That is I say hardly a liberal measure. In all civilized countries—I hope I am right in saying so—when the local authorities are called upon to meet such a heavy expenditure on education, Government also makes specific assignments out of the general revenues and the Minister,

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I say, ought to have made a provision in this bill for the purpose of inducing the people to welcome this measure.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Will the honourable member point out where specific assignments are made? In which countries?

Mr. C. M. GANDHI: In England.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Now, they are done away with.

Mr. C. M. GANDHI: Very well. It was given till 1921, so far as I am aware. But we are at the initial stage of our development, and if in other more wealthy countries a similar provision was made, certainly in India provision ought to be made. It emphasizes the position which I am taking up, namely, whether it is right for the Minister to rush through the Council a measure of this character, which is going to affect the rural areas in the way in which it is intended to do, in the manner in which this bill is being rushed through, and people not given an opportunity of stating as to whether they should insist on Government for making a regular assignment out of the provincial revenues or whether they will be able to find funds for themselves and therefore accept the bill as it is.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Will the honourable member suggest some measures?

Mr. C. M. GANDHI: When it comes to me to suggest, I will. This is not the time at which I should suggest, but if the Honourable Minister had taken some of us into his confidence, certainly we would have been in a position to suggest some measures. But that is another matter. My esteemed friend the honourable member for Ahmednagar district said, some members are unwilling to tax themselves and therefore they are trying to obstruct the Honourable Minister in this bill.

Now, Sir, I have been at some pains to find out, if we are called upon to meet the cost of primary education, how does Surat stand and how does Nagar? The population of Surat district is 513,000 and the cost of education on the basis accepted by the Compulsory Primary Education Committee will come to about 10¼ lakhs. Government will find two-thirds thereof. So the Government will give us 6¾ lakhs and the district local board will have to find 3½ lakhs. Our local cess is Rs. 1,61,000 and if that is doubled, Surat pays its way. But what is the situation in Nagar? In Nagar the population is 646,000 and the cost for compulsory education will come to about 13 lakhs, of which Government will have to provide 8¾ lakhs. The district local board will have to find the balance of 4¼ lakhs. Doubling the local cess, Nagar will have 1¼ lakhs, and Nagar will have to find the remaining 3 lakhs. How is Nagar going to do it, is a matter which the honourable member for Nagar should have consulted his constituents about and not run in for this legislation in a hurry as he has tried to do. Sir, therefore, when I suggested caution, I never meant for a moment to obstruct the Minister. I am one of those who believe that if we are to succeed in local self-government and in attaining higher responsible government, our administration in the local are should be strengthened. But that does not mean that a legislation of this character should be rushed through in the manner in which it is proposed to be done. Sir, let us now consider what are the sources of revenue given by this bill. In clause 93 you will find that Government gives us a power of doubling the

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one anna local cess by a multiple of three pies, if the district local board makes an application for it. A second source of revenue is an additional water rate under clause 96. You will see, Sir, that when Government has been pleased to give us a power of increasing local cess if the local board makes an application for it, whether Government will allow water rate to be levied or not has been kept in its own discretion. Government may allow to levy a water rate or may not. Then, the other sources of taxation are all those taxes which are admissible to us under the Government of India Act. But we are told they shall be subject to any general or special orders which may be made by the Government. Is that a liberal advance of local self-government? We are to find the money. Of course, the sources of revenue which have been given to us are not very inviting. Any member who takes the trouble of referring to page 157 of the Council Manual and looking at the schedule of taxes admissible to us under the Government of India Act will find that many of the sources of revenue therein mentioned are hardly suitable. We have to make our own selection. But then comes the provision "subject to any general or special orders which may be made by Government in this behalf", so that, again we do not know what Government will do. These are the three sources of revenue and with these three sources of revenue we are called upon to exercise certain extended powers, so far as public health is concerned. Now, what are those powers? If you refer, Sir, to clause 50, you will find that in the list of obligatory duties, a reference to those sanitary measures is in these words:

"Clause (e): public vaccination, registration of births and deaths, and sanitary works and measures necessary for the public health."

Then follows chapter V, in which certain duties are imposed either on the president or on the district local board. Now, when we consider how those powers or duties are to be exercised or performed, we have to realise that unless we are prepared to appoint a very large agency from village to village who will report on the breaches thereof to the district local board, it will not be possible to perform the duties at all. That means a large agency over a widely diffused area and not a compact area like that of a municipality. We have got now, as my honourable friends Dewan Bahadur Godbole and Rao Saheb Dadubhai Desai have said, village panchayats; we have got sanitary committees, who have been doing their duties, not very satisfactorily I concede, but these should be developed. These bodies exist in so many villages and in order to make the whole system perfect, you need only extend and develop them. But, as it is, the district local board, if called upon to keep an agency to check breaches of the provisions made under this bill, which will have to be a very large agency, will find it very difficult and I am afraid the sanitary measures by that agency will be practically futile. Sir, I forgot to refer to one very important matter with regard to taxation. So far as the cess is concerned, the Government agency continues. The Government, through the village patels or the village kulkarnis, will collect it for us. So far as the rates are concerned, Government will collect them for us and hand over the proceeds after deducting the cost of collection. But with regard to all other taxation which the district local board will levy under this bill, what is the provision provided for? You have to refer to clause 114 of the bill and that says that in all these cases the taxation could only be recovered in the manner in which taxes are recovered in municipal areas, namely, by presentation of bills, by notices, by warrants. Now, what a troublesome machinery that is is well known to all those who know

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or who have to deal with the District Municipal Act. And how is it possible, when we have to deal with 600 to 800 villages, how is it possible, I ask, to deal successfully with the matter of collection of taxes? Take the instance of collecting taxes on animals and so on, how many bills have to be prepared, how many notices are to be issued and how many warrants are to be issued? If that is so, then why not have the procedure by which the village officials collect their revenues? It may be said that Government will be pleased to order the ordinary revenue agency to collect the taxes for us, but, unless this provision is made in the Act itself, I am quite sure neither the village patel nor the village talati will do it. For any extra work which they may be called upon to do, they will ask for additional pay which is quite legitimate. Therefore I say the cost of collection will be quite out of proportion to the revenues collected even if the district local board is prepared to go in for additional taxation to raise revenue.

Then, Sir, we are told in this bill that the Collector will be called upon to prepare a list of voters, *i.e.*, those who pay the cesses and those who pay the taxes. If this is to be done by the same officer, why not put upon the same officer the duties not only of collecting the local cess but also collecting the local taxes? Therefore, my first proposal is to consider whether it is at all necessary to have chapter 5 in this bill and whether it will not be proper to delegate these duties to the village panchayats and the village sanitary committees.

In speaking of the powers of control, let us have a look at clauses 127-128 which contain powers which are known as the bludgeon clauses and power is taken for Government interference under which a certain officer is empowered to perform certain duties if Government is pleased to rule that the local body has been found guilty of default in performing them. Under clause 129 Government takes upon itself the power to dissolve, which I think is a good provision, but it also takes power of supersession under clause 131. If a district local board is to be proceeded against for neglect of duty, then I say the power shall not be exercised by one man. Time has certainly now come when the Honourable Minister must be relieved of that duty and be assisted by a board of representatives of the district areas either sitting in this Council or outside who will be elected by presidents of district local boards in each division (Honourable Members: Hear, hear). In some other provinces similar boards exercise this function and I think, so far as self-government is concerned, this Council may well consider whether it will not be wise to see that these powers of the bludgeon clauses are not allowed to be exercised by one individual but by a body in whom the district boards or other local bodies have confidence.

Then, Sir, I go to clause 131. There is a practical difficulty which the Honourable Minister may well consider. When a municipality or a district local board is superseded, the power is given to a committee of management but when the committee of management comes into existence it has no corporal perpetual existence and whenever it is to be sued or it has to sue, it cannot do so in its corporate capacity. I therefore think that early steps should be taken to rectify that defect. But whenever a committee of management is appointed, it must be a body with powers to sue and be sued in its corporate capacity.

Then, Sir, I go to the question of the constitution of local bodies, and I must here join my voice in condemning with as great emphasis as I can the

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question of communal representation. So far as my district of Surat goes, no difficulty has been found and as a matter of fact in three out of eight talukas, though the Mahomedan voters are in a minority in proportion of sometimes four to one, sometimes eight to one, even then a competent Mahomedan is elected and there is no hardship at all because Mahomedans have not been given separate representation. After all, what is the situation? Take it that there are some questions on which opinion amongst the two sister communities is divided on racial or religious grounds. So far as local bodies are concerned, there are no such differences as was pointed out by the honourable member Sardar Dalal, but suppose there are, what will be the situation? We are told either the Hindus are in a minority in proportion of one to five or *vice versa* and even if separate representation is given, Mahomedans or Hindus will be in that proportion and if the questions are decided on racial or religious grounds, then the Mahomedan or Hindu majority which is overwhelming will be able to carry out their wishes. No good purpose will be served. Therefore, why try to enforce upon the administration of local areas a constituency which has not existed up till now and when the whole system has worked so very well.....

Khan Saheb A. M. MANSURI: No, no.

Mr. C. M. GANDHI: My honourable friend who represents Surat and Ahmedabad cities says "no, no". I keenly appreciate his view—he represents a community which wants to come in by, as he says, the back door—he does not want to stand on merit alone. If a competent Mahomedan is found to take his place side by side with a competent Hindu, I see there is no difficulty at all. Opinions will differ. It is impossible to convince a man who refuses to be convinced, but I can say without hesitation that in my district Mahomedan candidates are returned times out of number by Hindu constituencies even when the strength of voters is in proportion of I think eight to one sometimes. Three out of eight talukas is a fairly good illustration to show that there is no such danger as you suppose. However, as I said, it is a matter of opinion. The Government of India have been emphasising the principle that communal representation shall not be given, it is bad and so far as possible the interests of minorities should be safeguarded either by nomination or some arrangements should be made whereby voters in particular groups of Mahomedans may be able to have certain representation. But these are details which you can work out harmoniously and it will be ruinous to the best interests of the country if this principle is allowed to be introduced in this Presidency which, so far as its moderation and sanity in political wisdom is concerned, stands first in the whole of India.

Khan Saheb A. M. MANSURI: How did the Congress accept it?

Mr. C. M. GANDHI: The Congress accepted it when sanity left some of its leaders.

Then, Sir, speaking on the question of franchise, this bill tries to take away the franchise from the propertied classes and the intelligentsia. I say the Act of 1884 was passed side by side with the District Municipal Act of 1884, under the Government of Lord Reay. It was then said that situated as we are in this Presidency where a large number of people are imperfectly educated or not educated at all, the educated classes by their influence, by their education, are people who will lead the ryots and that therefore a franchise based on an education test should be allowed. If that is so, Sir, shall we not recognise

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the fact that if we give an extended franchise to men who pay eight rupees assessment, we may get men of good common sense who can bring their own experience and common sense to bear upon the work to be done, how are we to find men who will be able to lead them? I have found very often that when people possessing this tax qualification are able to return their own men in a large majority, they have sometimes to import men from outside their constituency to lead them, because they really want men of education and leading to be there in order to help them, though I do not for a moment say that men with imperfect education may not be able to take a fairly satisfactory share in the administration. Therefore, I say that unless and until a very good case is made out to show that the men who hold property to the extent of Rs. 5,000, pensioners, school masters who have retired on a pension, honorary magistrates and other people of intelligence and education have not done their work well while on the boards, it is giving too much to a theoretical principle to disenfranchise them, and to have a uniform representation on the Rs. 8 basis. I hope the Honourable Minister will be able to consider that in the select committee.

Then, Sir, let us see how the bill provides for the carrying out of the several duties which it imposes on the district local board. One of those duties is the creation of a school board. In the Municipal Act, the constitution of the schools committee is dependent on rules made by the municipality itself. But, according to the bill, the constitution of the school board is to be made dependent on rules made by Government, and I share the sentiment of my honourable friend from Ahmednagar when I say that these vital powers which affect the very life of the body shall not be left to rules to be made by Government, and if they are to be left to rules, the rules must be part of the Act itself. Considering the matter further, what are the powers given to the school board? The school board is said to perform the duties and exercise the powers of the district local board in regard to matters of education. When you go to clause 50 of the bill, what are the powers given to the district local board in regard to educational matters? The powers given to the district local board are the provision of suitable accommodation for, the visiting and maintenance of, and the training of teachers for, primary schools, and the general development and extension of primary education. Look where you like in the whole of the bill, you do not find a provision similar to that in section 28 of the Municipal Act, where the municipality is given the power of managing the schools in their charge. In this bill, the power of management is not given to the school board at all. It has been given some powers, but.....

Mr. M. A. HAVELIVALA: Are these not all matters of detail, which, according to the ruling of the President, should be considered in the select committee and at the time of the second reading?

The Honourable the PRESIDENT: Mr. Gandhi is dealing with the general provisions, and it is very difficult to draw the line. The Standing Order allows that.

Mr. C. M. GANDHI: I think, according to the Standing Orders, I am entitled to discuss the general provisions, and I am discussing them in regard to the constitution of the school board. The bill does not give the local boards the power of management in regard to the schools under their charge. The old powers given to the district local boards in regard to educational matters were also exactly the same as the provisions in the present bill. But, as

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I said, the District Municipal Act gives power to the municipalities to manage their schools.

The Honourable the PRESIDENT: That would fall within the Compulsory Education Bill. We are now dealing with the Local Boards Bill and you can deal with the school boards only so far as the local boards themselves and their powers in this bill are concerned, but in the matter of education and the management of education, and all educational matters, that would fall appropriately within the purview of the Compulsory Education Bill.

Mr. C. M. GANDHI: I accept your ruling, Sir.

The Honourable the PRESIDENT: Mr. Gandhi, I am merely making a suggestion to you. It is impossible for me to say anything definitely. So, you are at liberty to go on in your own way. I merely made a suggestion; you may accept it or not.

Mr. C. M. GANDHI: I bow to your ruling, Sir. The whole of it may be unnecessary here. Clause 37 provides for a school board and the constitution of the school board is to be made under rules framed by Government. When we are creating a body, in my humble opinion, that body must have power to do something, the power to manage the institutions which will be there.

The Honourable the PRESIDENT: You are perfectly justified in speaking from that point of view, but there is this danger.....

Mr. C. M. GANDHI: That bill may be carried or may not be carried.

The Honourable the PRESIDENT: From the point of view of order, there is this to be said, that there may be conflict between this bill and the Compulsory Education Bill which is to be brought forward. It is relevant for you to point out that it would be necessary to put something in this bill, so as to avoid any conflict.

Mr. C. M. GANDHI: That is exactly what I am doing. There is another point to which I would like to draw the attention of the Honourable Minister. In the provisions of the District Municipal Act there is a distinct section which says that all decisions or resolutions arrived at by sub-committees are appealable to or revisable by the general board. Here we are creating a school board consisting of not only members of the district local board, but also of a large number of members who will be outside the board. There is no provision in the bill....

The Honourable the PRESIDENT: With due deference, may I say that you are just now going beyond the line of the first reading? This is really a matter of detail.

Mr. C. M. GANDHI: The only thing that I was going to say was that this clause should be amended in order to make the whole machinery of the bill complete. That is all, Sir, that I intended to say on the main provisions of this bill, and I hope that the Honourable Minister will see that the bill is translated into all languages and widely circulated before the select committee considers it.

Mr. DIPCHAND T. OJHA (Karachi City): Mr. President, as a Hindu member from Sind, I should like to make some observations with regard to the merits and demerits of the bill. I frankly confess that I have not got any intimate knowledge of the local boards in the province of Sind, as I am not a member of any local board, and I have had very little opportunity of knowing anything about the working of the local boards in Sind or elsewhere. I also

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admit that my knowledge with regard to the working of the Act in the Presidency proper is absolutely nil. I was very pleased to hear the remarks of some of my honourable colleagues who have been discussing the merits and the drawbacks of the bill for the last three days, and I am much obliged to them for the light thrown by them on the manner in which the local boards are worked.

Though, as I submitted before, I have no intimate knowledge of the working of the Act, still from my common sense point of view, I should like to confine myself only to one or two points which have been discussed at great length by some of the previous speakers. The point on which I wish to lay stress is the question of communal representation. My honourable Mahomedan friends from Sind, I find, have not that ability of expressing their views and putting before the Council their claims in English for the benefit of the Council.

Mr. KANJI DWARKADAS: I rise on a point of order. Is the honourable member in order in making a reflection on the ability of other members?

The Honourable the PRESIDENT: Reflections on any honourable member's ability are not unparliamentary, provided they are not offensively personal.

Mr. DIPCHAND T. OJHA: It is not my intention to cast any reflection, Sir. My honourable friend Rao Bahadur Chitale was criticised by more than one member for the speech he has made. Communal representation has been pressed forward by my Mahomedan friends. I am well aware of the conditions prevailing in Sind, and they are entirely different from those prevailing in the Presidency proper. That is the reason why I find the speakers from Sind have been at one with regard to the principle of communal representation. I do not know how the present provisions of the bill will govern the people of the province of Sind. I thought that some of the members might be under the impression that as the Honourable Minister in charge of the bill is a Mahomedan and that as his sympathies are bound to be with the Mahomedans, he has put in a provision for communal representation, but that was a misunderstanding. The other day Rao Bahadur Kale said that such was not the case. I am very glad to say that the Minister in charge is a Mahomedan belonging to Sind and he has looked at the question from a proper perspective. I do not know whether, from his experience of Sind or from his experience of his office, he has come to the conclusion that communal representation to a certain extent is necessary, but apart from my own personal opinion I say that so far as the province of Sind is concerned, it is necessary. In that province, so far as major municipalities are concerned, communal representation has been in vogue. When the question of communal representation in municipalities came on for consideration, a unanimous opinion was given that their Mahomedan brethren should be encouraged and that communal representation should be allowed. We have heard speeches of some honourable members who contend that because we are on our way to attain complete popular government, we must see that these reformed councils are worked in such a way that there is no room for disunion by a separate representation. But, as my learned friend Khan Bahadur Bhutto told you, Mahomedans are a backward community and their Hindu brethren must come forward and help that community, which is called the sister community, in order that that community, which is weak and which requires encouragement, may co-operate

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with us in making the reforms a success. That was the view we took so far as municipalities in Sind are concerned, and decided that communal representation might be allowed. My honourable friend Mr. Kassim is a municipal councillor of Karachi. He had been representing, before communal representation was introduced, a ward which was composed mainly of Hindu voters, and I cannot bring myself to agree with the contention of some of my predecessors that communal representation would produce disharmony and self-interest. In consideration of his services the ward elected him as its representative in preference to a Hindu candidate. Another ward composed mostly of Mahomedans elected a Hindu as its representative, and it did not consider then that, because they are Mahomedans, they should elect a Mahomedan as their representative. Why do such instances occur though they are rare? It is because there is some kind of union and fellow feeling between different communities living in large cities and towns to co-operate and carry on the administration of municipalities harmoniously and peacefully. Being a backward community they come to us, as we are educated, for help to bring them forward. Should we not as educated and intelligent people accede to their request, and help them forward though we may say that they require to be raised by artificial pulleys by way of communal representation? We do realise and we do know that the Mahomedan community forms the bulk of the population, and that there is lack of education and enlightenment among them. Those gentlemen, very few of them there are, who can come forward and represent the Mahomedan community are always of opinion that in order to elevate their community the Hindu brethren of theirs must come forward and help them by giving them certain concessions, so that it might inspire confidence in them which will make them co-operate with their Hindu brethren and work harmoniously. These are some of the reasons which prompted the Hindus in Sind to see that communal representation in municipalities was not discouraged. From the speeches that have been delivered I gather this much, that the Mahomedan population in the Presidency proper is in the minority. I fail to understand why Hindus, while they are in a majority, and while they can come in without any difficulty, should be reluctant to give this concession to their sister community, and encourage their weaker brethren in co-operating with them in the administration of their country. I hope, Sir, when this bill goes to the select committee, which will mainly consist of members from the different districts of the Presidency proper, they will express themselves in favour of communal representation, so far, at any rate, as the province of Sind is concerned. I feel I have given sufficient reasons to convince and take with me those colleagues of mine who did not agree with me on this point. I make allowances for conditions which are not the same as in Sind. I submit that this suggestion of mine may be duly considered by the select committee when this question of communal representation in the local boards comes before it. In that case, what I would suggest is this: that some provision might be made whereby different parts of the Presidency might be dealt with differently having regard to the different conditions prevalent in them. I have stated, Sir, that in the province of Sind the bulk of the population is Mahomedan. Most of the zamindars and landholders are Mahomedans. We have not got there particularly anything of the kind which might create dissension or disagreement. We have got Mahomedan gentlemen as zamindars and there are a few Hindu zamindars also. My honourable friend Mr. Purshotamdas Thakurdas

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remarked yesterday for reasons best known to him that Sind might gain by communal representation but that the rest of the province would not. If that is the feeling, I do not know how the select committee is going to deal with the province of Sind. Hindus are sometimes nominated to the local boards, but the majority of the local boards are composed of Mahomedans. You may call the Mahomedans what you like, say that they are ignorant, say that they are uneducated, say that they are officially taken in. Whatever it may be, if they get Hindus who are educated on the taluka local boards they come in contact with an enlightened section of the community, with the result that they get by way of borrowing some enlightenment which enables them, these ignorant people—that is my humble opinion—to change their views and become one with their Hindu brethren. I give the following as an information to my honourable colleagues. I was appointed by the Karachi municipality to the taluka local board of Karachi. If I remember rightly, the Honourable Mr. Lawrence was the Commissioner of Sind then. Government asked the taluka local board for opinion as to whether they required for the taluka local board an official vice-president and chairman or a non-official as such. The mamlatdar or the mukhtiarkar was the vice-president and chairman of the taluka local board at that time. The bulk of the members of the board were Mahomedans. Everybody or at least I myself expected that the Mahomedan gentlemen of the taluka local board would side with the Government and write to the Commissioner of Sind that they did not want a non-official as their chairman. When I *samjaoed* them and explained the whole difficulty, they gave up the idea of any powers being exercised by the official vice-president as chairman of the board and they sent up their opinion that they wanted a non-official as their vice-president and chairman. The sum and substance of the whole story is this : that though we may consider communal representation to be very bad, without conceding it feelings between the two communities will become more and more bitter. If we feel that the Mahomedan gentlemen of the taluka local boards will be of no use at all, we Hindus as an educated and enlightened class of people should come in contact with them, educate them and enlighten them, with the result that we shall be able to bring them to our opinion. And thus democratic Government will be attained sooner than otherwise.

With these few remarks, I would suggest that when the select committee comes.....

The Honourable the PRESIDENT : Order, order. You have made this suggestion twice. Let us not go backwards.

Khan Bahadur D. B. COOPER (Satara District) : Mr. President, I am glad I have to follow the honourable member for Karachi City (Mr. Ojha) and support him in his views about communal representation. I beg to express my agreement with the principle, and I am simply sorry that it is not extended to other sections of the community as well. This principle is much reviled in the name of nationality, unity and patriotism as being a means of disruption. On the contrary, I think, so long as the social habits and attitudes continue to remain what they are in this conglomeration of castes and creeds which goes by the name of India, in order to ensure equality of rights, obligations and treatment, every caste and every creed should have a voice in the administration of local institutions at least in the mofussil. There has been any amount of tall talk indulged in, which in effect purports to declare that even

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in the present condition of things every community is represented on the boards as practically and effectively in the absence of the addition of the principle of communal representation as is proposed to be done now under the bill. Well, is this a fact? I do not think a scrutiny will bear this out. As far as my district is concerned, the figures of respresentation on the district local board are quite different. In my district, Sir, there are in all 19 members on the board. Out of the principal communities that reside in the district, the Brahmin community—38,000 population—has got 10 elected members and 2 members nominated by Government; out of 34,000 Mahomedans there is not a single elected, not a single nominated; Marathas—650,000—only 1 elected and 3 nominated by Government; Jains and Lingayets—42,000 in number—not a single nominated, not a single elected; untouchables 175,000—not a single elected, not a single nominated; others—81,000—2 elected and 1 nominated. The total population of the Satara district is 1,020,000, and its district board consists in all of 19 members, of whom 11 are returned by taluka boards, *i. e.*, one by each taluka board, 1 is nominated by inamdars, 1 by the Satara city municipality and 6 are nominated by Government. Now the figures given by me show that the Mahomedans, 34,000 in number, are without a member; the Jains and Lingayets, 42,000 strong, are without a member; the untouchables 175,000 have not a single member; the Marathas and miscellaneous communities numbering 731,000 have got only 7 members; while a community of 38,000 have as many as 12 representatives on the board. Is that a satisfactory state of things I ask? I should take the liberty of asking the Government to consider the desirability of introducing proportional representation into the constitution of the local boards in view of these facts.

Finally, I sincerely congratulate the framers of the bill on their conscientious attempt the bill evidences, the reducing the official element in the internal working of the board to its minimum importance, so far as it is possible to do without impairing the efficiency and sense of responsibility of the board and its power of doing good to the community. With these words, I support the motion.

Mr. R. G. SALGAR (Sholapur City) (Addressed the House in Marathi): Mr. President, in the first place I thank the Honourable Minister for introducing this Bill No. XVI of 1922. I do not wish to take up the time of the Council in making a long speech. I only want to refer to one or two questions. As regards the question of separate Mahomedan constituency my own experience of my district, district of Sholapur in this respect, is that for the Sholapur city although there are 75 Mahomedans in my ward of the city, they cannot secure sufficient number of votes for themselves to get one of them elected for the municipality. Three years ago there was an election case in which those who had tried to bribe the voters were prosecuted and both of them were disqualified but notwithstanding this the Mahomadens could not come in. Now that is the state of affairs in the city of Sholapur as regards the municipal constituency. As regards district local boards the Mahomedan population is very much scattered in the district and in some villages there are one or two Mahomedan voters and in others there are a few more. And thus it is very difficult for Mahomedans to get themselves elected on the district local board from the general constituency. For these reasons, I must thank the Honourable Minister for creating a separate Mahomedan constituency by which I have no doubt Mahomedans who claim election will be returned to the district local board.

[Mr. R. G. Salgar]

I am only sorry the Honourable Minister has not taken the claim of the depressed classes also into consideration as regards this matter of separate constituencies. The state of the depressed classes in the rural area is very sad. They do not get sufficient water and other amenities of life to which they have equal right with others. If they stand for election for the panchayats according to the newly enacted Village Panchayat Act the patel and kulkarni and rich persons would not allow them to be elected there. The claim of the depressed classes ought therefore also to have been taken into consideration in connection with this measure. I hope that the Honourable Minister will take into consideration this fact.

As regards the inamdars I do not think inamdars require a separate constituency. Most of the agriculturists are their tenants and they can very easily seek election to district local boards through their tenants. Now the bill provides for three-fourths to be elected and one-fourth nominated, but according to new reforms the number of the nominated members ought to be less. So I propose that the elected members ought to be four-fifths and the nominated one-fifth as is provided in the municipal election. Now as regards the supply of funds to the district local boards for their irrigation works, etc., as Mr. Rothfeld indicated that the Government has no funds, I only want to throw in a suggestion, namely, that as Government has issued a loan in connection with the development of Bombay, it would be better if Government also issues a sort of an irrigation loan and thus raises money for the irrigation works of the district local boards. Taxation should be levied to discharge the interest of such a sum. In the Deccan, the agriculturists do not get sufficient water from irrigation, and hence they are in a deplorable condition, and almost all of their lands are mortgaged to sowkars. With these words, thanking once more the Honourable Minister for the liberal measure he has brought forward, I resume my seat.

Khan Saheb I. A. SAHERWALA (Northern Division): Mr. President, I rise to support the first reading of the bill and to say that the communal representation given to Mahomedans in this bill is thoroughly justified. If such representation is not provided for, then I am afraid no Mahomedan would be returned to any local or district or provincial boards in my district in Panch Mahals. There are three taluka local boards in Panch Mahals in which only one Mahomedan could come in only if separate representation is provided for. A large number of Mahomedans in this district are so poor that even under the present franchise many would not get the right to vote. In the whole of the district there are about 80 inamdar voters and they have been given a separate representation in the old district local boards; then it is but right that the Mahomedans should get separate representation in the new law. The honurable member Rao Bahadur Kale laid great stress on his argument against such representation in local boards, saying no religious or sectarain questions crop up in taluka local boards. I beg the honourable member's pardon, and say every now and then questions regarding tabuts and Hindu Ganpati and other processions crop up, and therefore it is equally necessary on local boards as in this council that there should be a separate representation for Mahomedans. I would also urge that in Panch Mahals which is a backward district the presidents should be nominated and not elected, because there are several reasons why Government control is indispensable in my district. I should say about taxation in the Panch Mahals district the cultivators, Bhils, Kolis and Nayakdas are so poor that they cannot bear more taxation in that district.

[Khan Saheb I. A. Saherwala]

Half the land of Panch Mahals is forest land, loaded carts of timber and firewood are coming on the local board roads and no cess is levied on forest income, as also on the abkari revenue. I therefore ask that these remarks should be borne in mind in the select committee.

Mr. S. K. BOLE (Bombay City, North): Sir, I rise to support the bill and in doing so I offer my congratulations to Government in general and to the Honourable Minister in particular for widening the franchise and for removing sex disqualification and giving the boards the power of taxation. I also offer my congratulations for introducing a uniform franchise on the basis of taxation and not on the basis of educational or other qualifications. Up till now, Sir, the minorities ruled the majority and the capitalist and the privileged classes enjoyed the franchise. It is therefore natural that they should try and oppose a measure like this. It is these persons who have been at times asking for democratic measures, and when Government comes forward with such democratic measures, it is these persons again who come forward and oppose them. It was clearly seen at the time the Municipal Bill was under discussion, and when the present bill was being discussed, several efforts were made to thwart it on some pretext or another.....

The Honourable the PRESIDENT: The honourable member will be good enough not to refer to any past debates. Concluded debates ought not to be referred to, unless they are necessarily relevant to and connected with the current debate.

Mr. S. K. BOLE: I am only trying to show, Sir, how efforts were being made to thwart the bill on some pretext or another.

The Honourable the PRESIDENT: Those are past efforts; we have to make new efforts now.

Mr. S. K. BOLE: We have heard a great deal, Sir, against communal representation, but those who are opposing the communal representation have been asking for special representation for the inamdars, which is nothing but communal representation. Several members criticise Government as if the Government was responsible for the caste system that is prevailing in India.

Mr. G. B. TRIVEDI: We don't want them to perpetuate it.

Mr. S. K. BOLE: Of course, Government is not going to perpetuate the caste system, but we must take things as they are. It is the duty of Government to secure representation for all the communities and, unless that is done, there can be no good government as well as self-government. Not only Mahomedans were not able to secure representation on the Legislative Council for several years, but Marathas and allied castes went without representation before the advent of the Reforms Scheme, and it is only when the wise measure of communal representation was introduced into this Council we see so many members on this Council from the backward Marathas and allied classes.

Mr. G. B. TRIVEDI: By exertion.

Mr. S. K. BOLE: So I do not want Mahomedans to be necessarily given separate representation. But give them separate seats in the general electorate. My object is to give them sufficient representation, and I go further and say, give a special representation to the Marathas and allied castes in proportion to their population. The depressed classes should be also given a separate representation. Give them separate seats, if you like, in the general electorate.

[Mr. S. K. Bole]

Do not call them, if you like, the depressed classes or the untouchables. My honourable friend Mr. Rothfeld took exception to that term. Call them *Somavanshis* and the allied castes, if you like. They do not call themselves *Asparshyas*. They call themselves *Somavanshis*. I know there are some associations of these people in Bombay which go by the name of *Somavanshis*. Call them by that name if you like, but anyhow give them separate seats. Sir, as long as the caste system is there, you will have to give separate representation. The caste system, I am afraid, will not disappear soon. Even in small matters like sports, we see how strictly the caste system is being observed. It is said here, "Deserve and then desire"; but we have seen that though many members from the depressed classes were qualified to be captains of cricket teams, they were not allowed to be captains of the Hindu cricket team in the last quadrangular match. It is all because the caste system is there. From this we see, Sir, what the disadvantages of this system are. It is said that in local boards and municipalities there are no separate or communal interests. It is good to say that, but, Sir, if you will move in the city of Poona itself, as you are moving on the Ganeshkhind Road, you will see that separate water taps are reserved for Brahmins and non-Brahmins who are all termed as *Shudras*. No better word than "*Shudras*" could be found by the men concerned. There are separate tanks for Mahomedans. And then, not merely that, but you will see, Sir, there are separate burning grounds for Brahmins and non-Brahmins. When this is the state of affairs in a city like Poona, the state in other towns and villages may just be imagined. I would also cite some instances where fit persons belonging to the depressed classes were elected on municipalities, but as soon as they were elected, other members belonging to higher and advanced classes sent in their resignations in a body. What does that show? You ask them to come in through the general electorates and when they are elected through such electorates, you resign.

Then, even if you assume for a moment that there are no separate interests in local boards and municipalities, still if some communities go without representation, then a bitter feeling would be there. It will not be removed. You will see that when the Indian National Congress accepted the principle of communal representation and gave some seats to Mahomedans, there was no bitter feeling between the Mahomedans and the Hindus. So also if you will give communal representation to Marathas and allied castes, and to the depressed classes, all the bitterness between these communities will be removed. Sir, I have dwelt on this occasion at some length on the necessity of giving communal representation in municipalities and local boards, because I had given notices of resolutions several times on this subject, but my opportunity or turn never came. So I take this opportunity and hope separate seats will not only be given to Mahomedans, but that they will also be given to Marathas and allied castes, and to the depressed classes.

(At this stage Mr. G. C. Bhate and four or five other members rose in their seats to address the House.)

The Honourable the PRESIDENT: I should like to take the sense of the House. I see now for the last one hour arguments have been repeating themselves. If the sense of the House is that they want the same arguments repeated, I am quite prepared to yield, but I wish to know if there is anything left to be said.

Honourable Members: Vote, vote.

The Honourable Sir IBRAHIM RAHIMTOOLA : May I say a few words, Sir ?

The Honourable the PRESIDENT : Yes, certainly.

The Honourable Sir IBRAHIM RAHIMTOOLA : Sir, I feel that the subject of the district local boards is so important, and so many honourable members of this House have taken a direct interest in the administration of such boards, that permission should be given to go on with this debate a little longer. I hope, however, that honourable members will realise the importance of saving the time of the Council and that when they speak they will try to introduce new points only and be as brief as possible. Having regard to the importance of the subject, I would personally deprecate the application of the closure at this stage.

The Honourable the PRESIDENT : I notice that arguments are repeating themselves. I shall therefore only allow fresh arguments and no repetition.

Mr. DIPCHAND T. OJHA (Karachi City) : So far as we, the mofussil people, are concerned, we feel that.....

The Honourable the PRESIDENT : When the occupant of the Chair is standing, no honourable member should rise on his feet to speak. I think the honourable member, Mr. Ojha, is making a second speech.

Mr. DIPCHAND T. OJHA : No, Sir, I am not making a second speech, but I want only to point out that if three or four days are going to be taken over such a matter now before the House, I do not know when it will be possible for mofussil members to finish the work here and get back to their homes.

Mr. G. C. BHATE (Kolaba District) : Mr. President, without making any preliminary remarks, I would like to come at once to the points which I wish to urge. The first point I should like to press is that if we have to choose between a district local board and a taluka local board, I would be the first person to urge that the district local board should be abolished and not the taluka local board. I come from a taluka place and have had experience of the taluka boards for the last 15 or 20 years, and I know what a hindrance the district local board is in the administration of the taluka board from the point of view of the taluka people. The honourable the Deputy President read some extracts from the Lawrence Committee's report, but he was careful enough not to read the paragraph which relates to the abolition of the district local boards.....

Rao Saheb HARILAL D. DESAI : I did not refer to that report at all.

Mr. G. C. BHATE : Whichever the report may be, the same report has reference to the abolition of district local boards and the question before the committee was whether the district boards should be abolished or whether the taluka boards should be abolished. Whatever may be the opinion of the people coming from district centres (because so many who have said that the taluka board should be abolished come from district boards of which they are either presidents or members and no taluka local board member has taken part in this discussion as yet), from the point of view of talukas now that we have got the Village Panchayats Act, the next step would be to make the taluka boards as good as possible if an enactment, namely, the District Local Boards Act, is to be amended. We had fond hopes when we were told that such a bill as this was coming forward, that the position of the taluka boards would be very much improved, but I fail to see any provisions improving the status

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of the taluka local boards. On the contrary, I see that the position of the taluka boards is rendered worse by the provisions of this bill. In order to see how the position is, I would like to refer first to the original state of things. Section 45 of the old Act gave certain revenues to the taluka boards.....

The Honourable the PRESIDENT: Which is the old Act?

M G C. BHATE: The Act of 1884. Section 45 of the Act of 1884 gave certain revenues to taluka local boards for expenditure at their discretion. They are mentioned in sections 45, (*a*) (1), (2), (3), (4) and (5); but as regards (5), the point is this: paragraph (5) relates to one anna cess, and as regards that one anna cess the position of the taluka boards is at present that the district local board has to assign a certain portion to the taluka boards and that portion is to be assigned on the principle, namely:

"The balance of the revenue described in clause (*a*) or clause (*b*) of the last preceding section (namely, 44) levied in the area subject to its authority after the district local board shall have made provision therefrom for the portion to be devoted to educational purposes under section 48 and for such share of the charges payable by the district local board under sections 46 and 49 as the said board shall deem equitable."

The important words are "as the said board shall deem equitable". Experience for the last 20 or 30 years as regards my taluka is that we have never got even one-fifth of the one anna cess, though there is a rule of the district local board of Kolaba district to the effect that not less than one-fifth should be assigned to the taluka local boards under it. So this "equitable" apportionment proved to the detriment of the taluka. What is the position of the taluka boards under the present bill? If we compare the provisions of clause 76 of this bill with section 45 of the Act of 1884, the provisions contained in clause 76 are these:—

The balance of the revenue described in clauses (*b*), (*c*), (*e*), (*g*), (*h*), (*i*), (*j*) and (*k*) of section 75 accruing in the areas subject to the authority of such taluka local board, after the district local board shall have made provision therefrom for the portion to be devoted to educational purposes under section 80 and for such share of the charges payable by the district local board under sections 78 and 81 as the said board shall deem equitable.

Thus all the sources including those reserved for the taluka boards open under section 45 of the existing Act have been combined in clause 76 of the bill before the House for distribution among the two boards and the reason given for this change is this, as stated in the statement of objects and reasons:—

"In the existing Act it is provided that the district local board is to devote not less than one-third of the proceeds of the local cess and shop-tax to education, and is to appropriate a suitable portion of the same for certain general charges and for the construction and maintenance of works (sections 45 (*a*), (5), 46 and 49) and that the balance of the local cess and shop-tax is to be at the disposal of the taluka local boards. It is found that some taluka local boards derive large revenues from the proceeds of fees paid for permission to quarry, while the district local board is unable to levy contributions from them, and may be in a less favourable position financially than the taluka local board....."

And hence it will be seen that the district local boards can claim a share of the revenues that formerly belonged exclusively to the taluka boards. It appears that all funds available to taluka boards under section (*a*), 45 (1), (2), (3), (4), (5) for their exclusive use have been disallowed and the district local boards can now say that all the revenue belongs to themselves and that the taluka boards must contribute something towards the expenses of the district

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local boards. So the financial position of the taluka boards is rendered worse by the provisions of clause 76 of the present bill.

As regards other matters, for instance budget, the position of the taluka boards was this, that the taluka boards used to prepare their own budgets to be sanctioned by the district boards and even small appropriations without the sanction of the district boards were not allowed. Under the present bill no independence is given to taluka boards in this matter but their position is rendered worse than what it was before this bill came on the anvil.

Then the other point which I would like to refer to is the municipal representation. Everybody seems to think that municipal representation on taluka boards is unnecessary and that it is a good thing that the bill has disallowed such representation. But from the experience that we have gained in talukas I can say that when a member from the municipality is on the board, the gentleman has experience of the working of sanitation and so on in the municipal areas and that experience of his is of very much use and help to the taluka board. That seems to be the reason why a member from a municipality was allowed to sit on the taluka local board. This principle of the experience of municipal councillors is also admitted in this bill, though to a limited extent, in clause 36 which deals with the school board. Sub-clause (2) of clause 36 says :

"The remaining members shall be elected by the district local board and shall be persons experienced in education, including women, or representatives of minorities or of municipalities in the district."

An Honourable Member : The municipalities are unable to manage their own education.

Mr. G. C. BHATE : So, some of the municipalities at least will have a chance to be on the board. The old provision that the municipalities should have a place on the board was for the benefit of the boards themselves, not for the benefit of the municipalities. The doing away of the representation of municipalities on the local boards will work detrimentally to the interests of the taluka boards themselves. They will lose experienced representatives from municipalities.

Then, as regards the point of the finances of the boards and their resources, while my honourable friend the honourable member for Surat City (Mr. Gandhi) was speaking, the Honourable Minister asked him whether he could suggest any other sources than the ones which are given in this bill. With due deference, I should like to read out to him some sources proposed by the Government officers so far back as 1882. I should like to see whether the Honourable Minister would take advantage of these. They are (1) all ground rent now credited to Government as sale proceeds of land sold for non-agricultural purposes, (2) a separate local fund cess on abkari contracts, and (3) a proportion of the increased revenue derived from the introduction of a revised survey settlement. These are the three sources which, so far back as 1882, were suggested by Government officers should be at the disposal of the local boards. When this bill was under consideration, some questions were sent to the taluka local boards asking them to make suggestions as regards the sources that could be had for the improvement of the revenues of the district and taluka local boards, and from my taluka at least I think a suggestion was made that there should be a one anna or some such cess on the forest contracts. That is a revenue which can be very well had, and the revenues of the district boards can be augmented if a one anna cess or some other proportion is levied from the

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forest contracts. Very large amounts are involved in these forest contracts which can very well be tapped. One other suggestion that I have to make is that the salt tax should be increased by one anna or half an anna per maund and the surplus should be given to the local boards. These are the ways in which the resources of the boards can be increased, if the Government wish that they should be so increased. I admit that salt is an Imperial head, but Forest is a provincial head.

Then there are some minor points about which I wish to make a few remarks. The present bill does not make any provision for the existing contracts. When the bill comes into force, the absence of any provision that the existing contracts will remain as they are will work hardship. Then as regards.....

The Honourable the PRESIDENT: Is there not provision for that under the General Clauses Act? Any contract entered into by law shall remain valid even if the law is repealed.

Mr. G. C. BHATE: The Act of 1884 specifically mentions these contracts and similar provision should be made in this bill.

As regards communal representation, I do not want to repeat any arguments. I am not in favour of communal representation at all. Further, if my information is correct, the Bihar and Orissa Council have a similar measure on the anvil, and I understand that the bill of that Government does not contain this principle. As regards this point, I would only refer to one resolution of the Bombay Government itself. It was a resolution passed in the month of February 1916, and that resolution specifically mentions that communal representation should not be allowed in rural areas. The purport of the resolution is that there should be no representation for Mahomedans in rural areas, the interests of the two communities not being conflicting, except in education. With these words, I leave that subject.

As regards Sind, one word and I have done. If, really speaking, Sind wants this communal representation, then we can make provision for it in the select committee, and leave the Presidency proper to be treated in a separate way. But that point can be considered in the select committee. With these words, I heartily support the first reading of the bill.

Mr. B. G. PAHALAJANI (Western Sind): Mr. President, I rise to support the first reading of the bill, and, in doing so, I think it is necessary to place before the House for examination the claims which the Honourable the Minister has made as regards granting extended privileges to the rural areas. He claims that the franchise has been widened by introducing a uniform standard; he claims that special educational facilities have been given; he claims further that independence has been given to the local boards in matters of control, and finally he claims that the power of appointment and dismissal of their servants has been given to the local boards. It is necessary that I may be one of those, who congratulated the Honourable Minister not on the scope of the bill but upon the industry bestowed on the framing of the bill, but I cannot agree with him so far as the independence of the local boards and their other rights are concerned.

One of the claims of the Honourable Minister is that in this bill he has introduced a new principle which was not in the old Act, namely, the creation of permanent non-official presidents and non-official vice-presidents. But

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that is a claim which could not be considered correct, because, according to section 27 of the existing Act, there is the power given to Government to allow any local board either to elect its own non-official president, or for the Government to nominate one, and the Council will understand that the progressive Government of this Presidency has been, from time to time, making liberal use of this option, and, at the present day, many local boards have the power of electing their own non-official presidents.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: No.

Mr. B. G. PAHALAJANI: Now, in this Council, I believe, we have a member of the Council who is the elected non-official president of a local board in Sind. Now, Sir, the power exists in the present Act, the difference being that what we say now is that there shall be a non-official president, while under the existing Act it was provided that there could be a non-official president I may point out to the Honourable Minister in charge of the bill that with regard to freedom from control his claim is untenable, for the provisions in the old Act and in the present bill are the same. Comparing clauses 124 to 129 of the present bill with sections 62 and 66 of the old Act, you will find that there is neither diminution of the power of control of the Collector, the Commissioner and the Government; the situation of the local bodies remains the same, even worse, for looking into clause 124, you will find that freedom from control is further diminished by insertion of the words "The Commissioner, Collector or any officer of the Government authorised by general or special order of the Government...." So, while the power of inspection was given to one officer, the Collector, in the old Act, it is now given to three different officers. If we proceed further on, we find that Government is authorised to make enquiry in the case of defaulting local bodies. That power was in the old Act and is still retained in the new. But the only difference is this: in the old Act while the Government can supersede local bodies, in the present bill it can dissolve or supersede local boards. That is the only change—and it is a change for the worse—in the whole chapter of control that this House will find. Looking into the bill, so far as increase in the independence of local bodies is concerned, I for one do not find any change. It will be for the Honourable Minister in charge to point out to the House the direction in which any independence has been conferred on district local boards.

Proceeding further, Sir, the same complaint which you, as chairman of the Primary Education Committee, heard that plans and estimates for construction of buildings by district local boards have to be sanctioned and carried out by the Engineering Department of Government and not by the boards themselves and such a condition was a great obstruction to the construction of cheap school buildings, it still remains in the present bill and has not been removed. There is the same restriction upon works exceeding Rs. 2,000, and there is the same restriction with regard to construction of roads which exceed a cost of Rs. 200 per mile. In the Act of 1884, the local bodies were empowered to make roads costing up to a limit of Rs. 50, and construct buildings whose cost did not exceed Rs. 500. This was in 1884, and it is now 1922. The cost of materials since then has increased enormously, and what we find is that Rs. 50 has been increased to Rs. 200, and that the limit of Rs. 500 has been increased to Rs. 2,000. I put it to the Honourable Minister whether the work that cost Rs. 50 in 1884, will not cost Rs. 2,000 now. This is hardly any extension of power conferred on local bodies. The extension of power claimed consists

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in having increased Rs. 50 to Rs. 200 with regard to roads and Rs. 500 to Rs. 2,000 with regard to other works. The consensus of opinion of the witnesses, you know, Sir, that gave evidence before the Primary Education Committee, was that district local boards should have considerable and wide independence with regard to the carrying out its own works and framing their own plans and estimates. It was one of the points that that committee considered that local bodies ought to be given power up to a certain limit to construct their own buildings independent of the trammels of the Engineering Department of Government. The plans and estimates, as has been pointed out times out of number by my friend Rao Bahadur Chitale, while discussing the budget, framed by the Engineering Department are far too heavy for the district local boards to bear. Those works can be done far cheaper by the boards themselves. It is high time that the district local boards should be given independence in this direction to take care of their works like any private proprietor. That independence has not been given, and the provision stands the same as it is in the old Act, and the local boards stand trammelled as before.

With regard to the appointment of officers, the same old section has been transported bodily into the present bill. As in the old Act, so in this one, all appointments have to be made, subject to such rules as Government may make in this behalf. There is no offence whatever in the wordings. Therefore, Sir, reading these clauses themselves I do not find any justification for any independence granted by this bill. If the extended independence lies only in the giving of a non-official president, or vice-president, I concede the claim. But so far as the powers of the boards are concerned, these are governed exactly by the same limitations as we had before. Sir, with regard to the execution of works, the limit of Rs. 500 of 1884 has been raised to Rs. 2,000 in 1922 : with regard to roads, the limit of Rs. 50 of 1884 for a mile of road has been raised to Rs. 200 in 1922.

Proceeding, Sir, we have got in the new bill a provision for a school board. Section 36 is the only section in the whole of the present Act which deals with primary education. If you, Sir, turn to section 30 (*d*) of the old Act, you will see that clause 50 (*d*) of the present bill follows it word by word. So far as primary education is concerned, the duties are the same and the powers of management and control, of which my honourable friend Mr. Chitale has been complaining times out of number and the whole country has been complaining, remain the same. You find only one clause, clause 36 which refers to the creation of a school board. I, Sir, being a member of the Compulsory Education Committee and knowing exactly its intention and knowing also the trend of the evidence that was recorded before that committee, am in a position to say that what is intended is not the creation of a school board to be elected by the district local board from the rest of the world, but that you will find in the Education Committee's report—the creation of a separate independent district education board, and not a school board—an entity separate by itself in which will enter not only some of the members of the district local board, but also representatives of the various talukas of the district and of the municipalities which are not themselves local education authorities. What is recommended by the Education Committee is not the school board, a small minor committee, a branch of the district local board, which can be created by clause 36 of this bill. If any committee under the Education Bill is to be created, it will have to be created out of the general body, composed of some members of the district local board and representatives of rural municipalities.

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Therefore, Sir, so far as this clause 36 is concerned, it does not solve the difficulty of the Compulsory Education Committee: it does not solve the great problem of the transfer of the management and control of primary education from the Government to the local board. It can only be done as the Education Committee has recommended, by the creation not of a school board as the branch of the district local board, but by the creation of a body independent of the district local board itself, which can delegate its powers, which can create powers by itself, and which, so far as education is concerned, will not be a branch of the district local board. It will be a body in itself co-extensive, as far as education is concerned, as the district local board itself and have command over revenues and expenditure, supervision and control of education. I am sure that you, Sir, presiding over the committee, were in full sympathy with that recommendation of the committee; the whole committee was unanimous in their view that the control of education should be transferred from the Government to the local boards. Therefore, I respectfully submit that the Honourable Minister in charge should bear in mind that clause 36 is only a very poor attempt at supplying the necessary power of managing the whole of primary education as is intended by the creation of a separate Education Board. Clause 36 is a misplacement in this bill. The matter of transfer of powers, you will find fully dealt with in the Compulsory Education Bill.

The Honourable the PRESIDENT: The Council is adjourned to 2. p. m. on Tuesday the 26th September 1922.

*Tuesday, the 26th September 1922.*

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The Council re-assembled at the Council Hall, Poona, on Tuesday, the 26th September 1922, at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present*:

ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BEDREKAR, Khan Bahadur I. M.
BHATE, Mr. G. C.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
CLAYTON, Mr. F.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA
DWARKADAS, Mr. KANJI
FERNANDES, Major C.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GODBOLE, Dewan Bahadur K. R.
GRIFFITH, Mr. F. C.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HAJI KHAMISO GUL MAHOMED, Mr.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
HOOD, Mr. A. J. F.

HULKOTI, Mr. CHANNAPPA CHANVIRAPPA.
ISRAN, Khan Saheb G. A.
JADHAV, Mr. B. V.
JENNINGS, Major-General W. E.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
KASSIM, Mr. G. H.
KER, Mr. J. C.
LAGHARI, Khan Bahadur KHAIR BAKSH
LAHORI, Khan Bahadur HAJI AMIRALI
LALBHAI AMBARAM, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LORY, Mr. F. B. P.
MODI, Sardar Davar T. K.
MOHIDINKHAN, Khan Saheb HAJI HAZRATH KHAN
MOHOMED SALAHUDDIN K., Mr.
MONIE, Mr. P. W.
MOUNTFORD, Mr. L. J.
MUTALIK, Sardar V. N.
NELSON, Mr. F.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PAINTER, Mr. H. L.
PARANJPYE, The Hon'ble Dr. R. P.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PAWAR, Shrimant J. A.
PETIT, Mr. JEHANGIR B.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SAYED, Mr. MAHOMED KAMAL SHAH
SHIRRAS, Mr. G. FINDLAY
SINDORE, Mr. H. N.

SURVE, Mr. A. N.
THAKOR of AMOD, Sardar NAHARSINGHJI
THAKURDAS, Mr. PURSHOTAMDAS
THOMAS, Mr. G. A.
TRIVEDI, Mr. G. B.
VICHARE, Rao Bahadur D. A.

## LOCAL BOARDS BILL (BILL No. XVI OF 1922.)

(Consideration of the first reading resumed.)

Mr. B. G. PAHALAJANI (Western Sind): Sir, yesterday I tried to show that necessary provision for education had not been made in the present bill, but such provision is necessary in the case of primary education.

The next important chapter in this bill is the chapter on taxation. Important clauses in that chapter are clauses 93, 95 and 96 which deal with the levy of an additional one anna cess on every rupee of land revenue, that is, land revenue can be doubled if necessary, with the levy of water rate not exceeding two annas to be imposed by Government and other taxes that can be imposed *suo motu* by the district local boards. Now, Sir, if this new power of taxation has been given to the district local boards for the purpose of better provision of education and if hereafter while deliberating upon the Compulsory Primary Education Bill it is decided that the local boards ought to contribute one-third—a matter which is still under dispute in the various sections of the people—it will be necessary to see that all the powers of taxation that have been conferred upon the district boards will be sufficient to produce an appreciable amount in that direction. The expenditure on collection is a serious factor to be considered in determining the net amount available for the purpose. There is one whole chapter devoted to the collection of taxes. This chapter has to be considerably modified in such a way as to cost the district local boards as little as possible to enable them to carry on the duties that the Compulsory Education Act might impose upon them. Now, Sir, the powers of taxation that have been conferred are certainly no other than those that are dealt with in rule 5 of the Government of India Rules under section 80A, (3) (*a*), namely, tax on land and land values, tax on buildings, tax on animals, menials and domestic servants, a terminal tax and a tax on trades, a tax imposed in return for services rendered, such as water rates and other rates. Now, so far as the rules under section 80A of the Government of India Act are concerned, these are the taxes which will be good enough for municipal areas, and, so far as those areas are concerned, they are likely to bring a very large amount in those areas, but when these taxes are proposed for district local boards, for rural areas, it is a highly doubtful question whether a sufficient amount will be realised after deducting expenditure to provide for the enormous increased expenditure that the compulsory education will involve. Even at present the financial state of district local boards is such that out of the expenditure of 55 lakhs on primary education they can pay only one-ninth of that expenditure, that is, six lakhs only. The rest has been paid by the Government. If it has to provide one-third, 33⅓ per cent., even on voluntary education it will have to provide three times the present expenditure, that is, 18 lakhs of rupees. If compulsory education is introduced the local boards will have to raise an additional sum of Rs. 42 lakhs. It is a serious question to consider whether these sources of taxation will be sufficient. I put it to the House whether any taxes will be at all necessary were it not for the advent of the compulsory education. The

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chapter commencing with clause 104 provides for the machinery for the local boards to collect taxes as is done within municipal areas. Municipal area is a concentrated area in which within a small sphere population is collected : it is easy to collect all the taxes in a short time and with the minimum of expenditure but in the rural areas where the areas extend over hundreds of miles and hundreds of villages, it is not possible to create an establishment which will not absorb all the revenue recovered under all these heads. This matter that a machinery for collecting taxes will be too costly was brought to the notice of the Compulsory Education Committee. That committee was considering ways and means to make it possible for the local boards to collect their revenues. It would be time to consider hereafter whether the burden of charges for the purpose of collecting these taxes should not be taken away from the district local boards and laid on the Government which can collect and hand over the collection in the treasury for the benefit of the district local boards. Are we not told that Government will collect the additional cess on the water rate because it is the Government who imposes it ? As regards the taxes that these local bodies may impose, they will have to employ their own agency ; that is the provision in the bill. But I will remind the House that there is a precedent for putting the burden on the Government in the Sind Local Fund Amendment Act of 1865. By this local cess was imposed in the province of Sind. In that very Act there was a provision made for a shop tax. This Act is still in force. The shop tax so levied like the one in the new schedule is to be recovered through the agency of the Government by the Commissioner in Sind. A similar burden can be laid by a special provision in this bill on the Government as was done in the Act of 1865. I would, therefore, submit that while this bill is in the select committee or when this bill comes again before this House at the second reading, this House may consider, may seriously consider, Sir, whether the cost of the collection and the whole chapter on it which deals with the cost of collection should not be done away with and another section substituted for the purpose of throwing the burden of collection on the Government. If compulsory education is to be introduced, the cost of the collection of the taxes should not be thrown by Government on the district local board.

I am prepared to say that if taxation is imposed, and this chapter retained, there will be no saving whatever and the power of taxation that is given by the bill will be altogether futile. It will be only a name ; it will not assist the board to carry forward any new measures of improvement if so minded. I proceed to refer to another chapter on nuisances, on conservancy, which has been bodily taken from the Municipal Act. It is the most unsuitable in the Local Boards Act. The conservancy chapter can easily be applied to municipal areas, because it is easy to administer such an Act within a limited area. But, where jurisdiction extends not to a few villages centred into one, but to thousands of villages, it is not possible to enforce the provisions of nuisance or conservancy clauses through an agency of the district local board or through an agency of the taluka local board. If the function can at all be done, it is through the village community. If it at all can be done, it is through the village panchayats or, as under the Municipal Act, by appointing sanitary committees in rural areas where there are no municipalities. But, so far as the district local board is concerned, I do not think, Sir, it is fit, or fair, or suitable, or that these several porovisions of the Municipal Act can be easily brought into action without incurring enormous expenditure disproportionate to the

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welfare to be derived by enacting these sections. I therefore submit that this chapter on nuisances is also an unnecessary one, whose retention in the bill has to be carefully considered by the Honourable Member in charge, either at the select committee or at the second reading.

And lastly, Sir, there is the question of franchise. Honourable members will hear from the Honourable Member in charge that this institution of the district local board is in its infancy and it is not safe to remove Government control from it. If one admits that position, he must also admit that the new Local Boards Act which is being enacted is a mere experiment. If the Government is anxious to see how the new members are fit for this kind of duty and that therefore it is necessary for a time to retain the same control with respect to boards, then I say that the new extended franchise, which lowers the right to vote to Rs. 8, lower than that which is considered necessary by Government rules for the purpose of electing a member for this Council, is too low at the presnent time when it is merely an experiment, when the franchise is being extended by way of experiment to befit us for the duties involved. I submit that this new measure will throw upon the district local board an enormous number of voters disproportionate to the necessity of it. The new qualification of an Rs. 8 assessment will defeat the very object for which the bill is proposed, *i. e.*, to fit new men for the work. If, instead of making the Rs. 48 assessment a qualification, a lower qualification, but not so low as Rs. 8, is preserved, I think it would be worth while for Government to consider or for this House to consider whether it will not be necessary to alter it in order to give the board efficiency. But the most important question is, Sir, the communal representation question. So far as I am personally concerned, without hesitation, Sir, I will declare against communal representation. I know its disadvantages, and I have always been able to assert that the communal representation does away with the independence of character which is absolutely necessary for the discharge of one's duties on elective boards. I may say that communal representation has the evil effect of inducing those elected by their community to confine their attention to the needs of their community only, to the complete exclusion or benefit of the other community or communities to whom they are not responsible for their votes. That is the evil effect. I cannot commit my constituency in Sind by any opinion on that point. What I say, Sir, is my own personal opinion. What my Hindu constituency, so far as the district local board or the rural areas are concerned, will say, I am unable to state. I cannot bind them by any expression of opinion which I give on my own behalf alone. I may add that, so far as Sind is concerned, the whole matter can be easily solved by having mixed constituencies, that is to say, by making Hindu candidates seek for the votes of Mahomedans and Mahomedan candidates seek for the votes of Hindus alike. If necessary, reserve some seats for the Hindu minority there. After all, in Sind there is a Hindu minority of one-fourth to three-fourths. It may be necessary to give the Hindu minority there, though they have not demanded it, more representation. A mixed representation with a mixed constituency will, in my opinion, serve better purpose than communal representation, because communal representation goes to accentuate and perpetuate the differences between the two communities. I know by my experience in the municipalities that this communal representation had to be resorted to, not by their free will, but it has been more or less forced upon the municipalities by the local Government, which in Sind is the Com-

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missioner in Sind, of course not by the Bombay Government, which has from time to time declared itself against communal representation. The matter, so far as the municipalities in Sind are concerned, is concluded. So far as district local boards are concerned, the matter still remains open. But the effect of this provision in clause 6 is a matter which remains to be judged not by personal predilections, but by the predilections of the constituency which I represent. I therefore submit to this Council that if the bill is proposed to be referred to the select committee with all its present provisions, it will be absolutely necessary to add and subtract a large number of provisions. It may be necessary to add a new chapter in some cases for the purpose of effectively carrying on real local self-government and of making compulsory primary education a reality in this Presidency.

It is absolutely necessary to think over it again and to go over the chapter on taxation in order to see how it can be made an effective aid for the purposes of carrying on the new business. It will be necessary—absolutely necessary—to husband our resources in the district local boards if district local boards are to be hereafter an unburdened good to the country. And therefore, Sir, whichever members go on the select committee, I will beg of them to take into consideration all these new matters. If they want to create more independence for the district local boards, they should put them in the Act itself and not give them all over to the Government under clause 133 of this new bill to provide by rules. Whichever they choose, place it in the Act itself—take that power once for all unto themselves and not depend upon the mercy of Government who can deprive them of the power by rules.

Sardar Davar T. K. MODI (Surat District): Mr. President, I had no desire to intervene in this debate at this late stage when the patience of the House is almost exhausted. But, Sir, several members have thrown out suggestions that the taluka local boards should be done away with. I therefore deem it my duty to utter a few words of warning.

It is an admitted fact that local self-government has up to now achieved no success; the reason has been that we have not built it up from the bottom. We did not associate the people with the administration of local affairs by establishing village committees and we circumscribed the powers and resources of the taluka boards. We have now got village panchayats and I expected to find in this bill larger resources and powers given to the taluka boards. But to my great regret I find, Sir, that the district boards have not been given larger powers or greater resources, but on the contrary I find that the resources have been still further curtailed. Under the present Act, all the revenue and income derived by the taluka boards are not liable to a contribution to the district boards, but the bill before the House empowers the district board to levy a contribution on all sources of income of the taluka board. This is in my opinion a very retrogade step. In my opinion the taluka board should in the scheme of local self-government form an essential part. It should be the general agency for rural administration and it should be the principal agency. It should have adequate powers, adequate resources and greater independence. The reason for this is this, that the area over which the jurisdiction of the taluka boards extends is such that people in it are known to one another and possess local knowledge and interest. They have interests which converge on definite and recognised objects. But the members of the district boards cannot possibly have much local knowledge, because the area of the district board extends on an average from 1,400 square miles to 4,000 or more square miles,

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and the conditions of each taluka in a district considerably vary. Therefore, for the purpose of local self-government the district board is a less important body than the taluka board. The district board should deal only with questions of common interest, should have large co-ordinating and financial powers; it should exist for the purpose of co-ordination and taxation, and for executing such functions for which it is specially fitted. The present bill ignores this fundamental principle and, if this principle is not recognised, I am afraid that all the good results expected from this new bill will not be achieved, and this bill also like the present Act will not any further advance local self-government.

Coming to the question of taxation, it is a matter of common knowledge that rural boards have made no substantial progress because their resources have been inadequate. How does the present bill propose to increase these resources? Two kinds of taxation have been suggested, the first is the land cess and the second the levy of certain other rates. With regard to the first, power is given to the district board to recommend the increase of one anna cess up to two annas. I am extremely doubtful if the district boards will incur unpopularity and ever make such recommendation. But, even if such recommendation is made and the income of these boards under this head is doubled, that income will be absolutely inadequate because with the rise of expenditure, the expenditure of the board is not only doubled but has increased to a far greater extent and, with the increased liabilities which have been proposed to be imposed upon the district boards, the expenditure will be more than quadrupled.

The other head is that of taxation proposed by this bill which empowers the boards to levy certain taxes which are laid down in a schedule of the Government of India Act. With regard to them, in the statement of objects and reasons the Honourable Minister tells us that the sources of rural taxation for the land cess are very limited. Let us see what these very limited sources are. They are very few, for instance, tolls. We know that tolls are being again imposed and the revenue under that source will not be very large and will not ease the situation very much. Then there is the octroi, the house tax, the wheel tax, tax on animals and a tax on professions and business. Now, Sir, we know that village panchayats are being established under the Village Panchayats Act and the house tax has been made compulsory under that Act, so that that head goes away. Then the village panchayats are also empowered to levy octroi: they may impose octroi if they so choose to do. The only other three sources left are the tax on animals, the wheel tax and the tax on professions. Anybody who is acquainted with rural areas will immediately see that these three sources cannot at all be tapped. Therefore, Sir, the power of imposing taxes which is given to the district local boards is not at all real, but is illusory. (An Honourable Member: Hear, hear.) There is, under one of the present Acts which we are going to repeal by this bill, a power which gives authority to Government to levy a one anna cess on the excise revenue. It is quite true that up till now Government never levied that cess. But recognising the injustice of not doing so they, in lieu of it, made a contribution to the district local board and called it a contribution in lieu of the one anna cess on the abkari revenue. That is now proposed to be abolished by the present bill, and with regard to that the Honourable Minister.....

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Who gave the contribution?

Sardar Davar T. K. MODI: Government, of course.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The Government of India, not the provincial Government.

Sardar Davar T. K. MODI: I stand corrected with regard to that, but now Excise has become a provincial subject, and the Bombay Government can certainly continue that contribution. It does not matter whether the Government of India paid that contribution or the Government of Bombay did. But the local boards are certainly entitled to that contribution if the present bill is not passed. With regard to that, in the statement of objects and reasons the Honourable Minister very coolly tells us that this tax was never imposed, and by dropping the words "sair revenue" no inconvenience would be caused and the result will be to preserve the *status quo*. I ask him, Sir, whether it is a correct statement.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: It is.

Sardar Davar T. K. MODI: I submit, Sir, with the greatest deference to him that it is absolutely incorrect. It is not taking the House into confidence, but leading the House on the wrong track altogether. The result of dropping those words from the present bill, as far as my own board is concerned, will be that it will lose a recurring grant of Rs. 14,000 every year. (Honourable Members: Hear, hear).

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The Government of India decided that the local boards are not authorised to levy that tax, and the whole question has been decided. The Government of India used to give that contribution.

Sardar Davar T. K. MODI: The explanation given by the Honourable Minister does not make me any wiser than I was. I simply say that the result of dropping these words "sair revenue" from the Local Boards Act will be that my local board will lose a recurring grant of Rs. 14,000. By dropping these words, the Government of Bombay or the Government of India will be saving at least a lakh and a half of rupees, because the total contribution under that head amounts to Rs. 1,50,000. I ask if this is a harmless change proposed to be effected by this bill. I respectfully submit that it is not, that instead of increasing the resources of the district local boards this bill only cripples them. This contribution which is made by Government was fixed on the basis of the excise revenue at some distant date. If this had been revised from time to time, the contribution which the district local boards would have derived under this head would have been at least 50 per cent. of their present income. If this power is not taken away by the present bill, if the local boards are fairly treated by Government, and if this cess of one anna is levied on the excise revenue, the income of the district local boards will increase by 50 per cent. I say that the other sources of revenue being illusory and not real, this is the only source to which we must cling.

Then, Sir, as soon as free and compulsory education is introduced, the boards will find that they will lose their income derived as fees from the schools, and, so far as my board is concerned, I know that it will lose an income of Rs. 10,000; so that, if this bill is passed as it stands, my board will stand to lose Rs. 25,000 every year. I want to know if a measure of this kind really increases the resources of the district local boards.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Does the honourable member not want free and compulsory education?

Sardar Davar T. K. MODI : I never said that I did not want free education. I said that the result would be that my board would be losing Rs. 10,000. I would not complain of losing Rs. 10,000 if the other legitimate source of revenue, namely, the cess of one anna on the excise revenue was kept. It is not at all fair to deprive the local boards of that cess at a time when the burdens are going to increase. Free education will come in, and that will increase the burden of the district local boards. Then there will be the duty of registering births and deaths. Although that looks very simple and plain, the expenditure on that head will be considerable, because we have at present absolutely no agency to register births and deaths in villages, where the villages are 700 or 800 in number, and perhaps many more in other districts. The other day an honourable gentleman said that the patels and talatis could be used as the agency for this work as at present. With regard to that, I must say that in those boards in which non-official presidents have been appointed, the Commissioners of those divisions have written to these boards saying that they can no longer employ the agency of patels and talatis even for the purpose of holding auction sales which they up till now held for disposing of roadside trees and grass. I ask, is it treating the boards fairly if the agency of the patels and talatis is taken away by the Commissioners and the further duty of registering births and deaths is imposed on the district local boards ? Then, the burden of making contribution for anti-rabi treatment also comes in. The result of all this will be that the boards will find themselves much poorer, with much less resources than they at present have.

Then, Sir, coming to the question of light railways and tramways, my honourable friend Dewan Bahadur Godbole said that the power to construct such railways and tramways should be given to the district local boards. The Honourable Minister promptly got up and said that that power existed under the present Act, and it was also included in the present bill. But I ask him whether it does not cost money to build them, if it does not require capital expenditure, and, if it does, has he made any provision for that in the bill ? Is it treating the House fairly to say that the power is there ? I say there is no power at all in the bill.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Do I understand the honourable member to say that Government should pay all the money, and that they should carry on the other administration without funds ?

Sardar Davar T. K. MODI : I do not ask for money from Government. I want the district local boards to construct their own railways, and for that purpose has not the power to be given to the district local boards ? Is any provision made in this bill empowering them to borrow money ? Is there any provision for guaranteeing payment of interest on capital expenditure ? Even if there had been any power given to the district local boards to levy special extra land cess for the purpose, then I should have said that satisfactory provision was made in the bill for constructing light railways and tramways. When such powers do not exist in the bill, and when an experienced member like Dewan Bahadur Godbole made a suggestion of that character, I say that it was not correct to say that the power has existed in the present Act and also in the bill. Then, Sir, coming to the subject of execution of works, no adverse criticism would have been made on that head if provision was made in the present bill empowering these local boards which employed engineers of their own to construct their works up to any limit. At present it remains with Government to empower local boards to construct their works beyond a

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certain limit, even though the local boards may employ engineers of their own. Those boards which have employed engineers have been empowered to construct works of their own up to Rs. 50,000. Every one is complaining about it. I think that a provision must be made in the bill itself to the effect that boards which employ engineers and adequate staff, should be allowed to construct works up to any limit.

Coming to the question of school committees, my honourable friend the honourable member from Surat said that the present bill does not give any further powers with regard to the management of schools than in the old Act. The Honourable Minister after consultation with the Minister for Education stood up and assured us that the next bill, the bill for compulsory education, has made adequate provision for that. Now, Sir, I want to ask the Honourable Minister for Local Self-Government whether that bill makes provision for compulsory education up to vernacular standard IV, and whether the district local boards do not make provision for further education. As a matter of fact they do not confine their activities to teaching up to standard IV. What about the management of schools which give education beyond standard IV? Does that bill give power to district local boards to manage those schools? I am assured by the Honourable Minister for Education that it gives further powers than are contained in the present Act. With these observations I resume my seat.

Mr. C. C. HULKOTI (Dharwar District): Mr. President, the bill has been dealt with in its various aspects by several members of the House. In the light of my experience for nearly 7 years on the district local board of Dharwar, I beg to submit that the present bill, considered as a whole, is not satisfactory in many of its provisions. The honourable members who preceded me have covered the ground exhaustively. The first point which has to be emphasised is that this bill for the first time introduces a dangerous principle and that principle is likely to jeopardise the very progress of local self-government. The next point which I wish to make out is that certain provisions in the bill are incapable of execution, and absolutely impracticable. The third point which I would like to make is, that the machinery that is provided for imposing and collecting taxes seems to be quite cumbrous, and it ought to have been simplified. It seems to have been modelled on the lines of the District Municipal Act. The provisions as are found in the bill are absolutely unworkable, so far as rural areas are concerned, which are very extensive. The next most disappointing feature is that the revenue officers of the district are given more power than in the old Act, and I beg to submit that this will hamper the progress of local self-government. With regard to the different committees that will come under the bill, their relation to the district local boards has not been clearly defined and hence they are likely to be misinterpreted. I feel that the committees that have been newly introduced in the bill could be safely deleted. Further I may tell the House that no provision with regard to acquisition of lands and building-sites by district local boards is made in the bill. Unless special machinery is provided for in the bill as in the case of municipalities to be constituted under the new "major municipalities bill," it is impossible for district local boards to go on with their construction of buildings for schools and roads. The last point which I wish to impress upon this House is this: the provision with regard to taxation is such that it is not worth the money that will be required to be spent upon its collection. I wish to submit this point for the serious consideration of the select committee.

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My suggestions as regards the frame-work of the bill are these. The bill as a whole should be divided into two sections: the first part should contain substantial sections of general application throughout the Presidency, which are capable of being altered by the Legislative Council, and the other part should consist of rules and orders, as in the Civil Procedure Code, which can be left to be amended, if necessary to the corporate local body, subject, of course to the approval of the local Government. I make this suggestion with one view, and that view is this: the local conditions of the rural boards are different, and they require different rules. They should, therefore, be allowed to make their own rules and by-laws under different heads to suit their own conditions and also to meet their local needs. It is quite desirable, in these circumstances, that these boards should be given enlarged powers of making rules and by-laws, and these rules ought to be subject to the sanction ultimately of the local Government.

The frame-work of the Act as it now stands is not so satisfactory as it ought to have been. The first point is as regards the constitution. I beg to submit that the elective element which is now fixed at three-quarters ought to be enlarged and the nominated element should be reduced. I beg to submit that the time has come when the official element ought to be reduced still further and the elective element ought to be increased. The present bill contains some sort of provision for compelling the presence of officials on the board for the purpose of giving expert advice whenever necessary. With this safeguard, I beg to submit that the official element may be reduced to a greater extent. I need not tell the House that the cry of the country, so far as these rural boards are concerned, is that they should be wholly elective bodies, but unfortunately that cry has not been met so far as the provisions of this bill are concerned. The next important matter, so far as the constitution is concerned, is the numerical strength of the rural boards, whether taluka boards or district boards, is not determined in the bill itself, but is entirely left to the rule-making power under clause 133, and therefore the Council is handicapped in determining the strength of the nominated element and the elective element. So, it is not possible to suggest any modifications so far as the constitution is concerned.

Now, I come to the second part of the bill, which introduces an important change. For the first time, as I said in my preliminary remarks, a distinction is made between Mahomedan constituencies and non-Mahomedan constituencies. Before I proceed to make my observations on this principle, I may be permitted to tell this House that I am a non-Mahomedan, a non-Brahmin and a non-Maratha. Still, I beg to submit that this is a most unhappy feature of the bill, and this provision is likely to create a very undesirable exclusiveness between two important communities that have lived side by side in the rural areas quite smoothly and harmoniously for ages together. It will not be surprising if I tell the House, so far as the rural areas are concerned—I come from a rural area myself—there is no distinction at all so far as Mahomedans and non-Mahomedans are concerned. A number of my learned colleagues in this House have given instances from different districts, of cases of Mahomedans being elected by Hindu constituencies. But an attempt has been made to justify this distinction on three grounds. Those grounds, I beg to submit, do not hold good so far as the rural areas are concerned, especially in view of the nature of the duties and responsibilities of the rural boards. The first ground mentioned by the Honourable Minister in charge of this bill was that

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this principle was not recognised for the first time: it was recognised for election to the local and Imperial Legislative Councils. But, all the same, I trust that he will recognise that the duties and responsibilities of the Legislative Councils and the local bodies are quite different, and that the grounds which justified the introduction of this principle in regard to the Legislative Councils cannot be applied to the local boards. Then the other point urged by the Honourable Minister was that there has been harmonious working in the Councils in spite of communal representation. I beg to submit, Sir, it may be due to the fact, as was mentioned by one of my friends, that there are few grievances now to urge on the attention of Government, because without a great deal of cry they are likely to be remedied very easily. I think this probably accounts for this harmonious working, if I may be allowed to use the words of the Honourable Minister, meaning that sectarian questions were never urged by my Mahomedan colleagues in this Council. Again some instances were quoted of this communal representation being extended to Mahomedans in the provinces of the Punjab and United Provinces. So far as I know, there seems to be a greater distinction and cleavage between the Hindus and Mahomedans in those provinces than in this province, and it may be necessary there in the interests of the two communities that the Mahomedans should have separate representation. But here in our Presidency, so far as rural boards are concerned, I think it is quite essential in the interests of both communities, if they are to live side by side amicably, that this distinction should not be carried further. This distinction should not be perpetuated any further. If once you introduce this principle of communal representation in the rural areas, we do not know where we shall be able to stop. It has already been suggested by a number of my honourable colleagues in this Council, for instance Khan Bahadur Cooper, who comes from Satara, that almost all the communities, the Marathas, the depressed classes, the Lingayats, in fact almost all classes, should be given communal representation. In order to be consistent and logical, you must concede that claim, if once you suggest that there is justification to introduce such a distinction in this bill to safeguard the interests of important minorities.

Mr. O. ROTHFELD: Sir, to make it quite clear—I could not catch the honourable member—am I to understand that he is arguing that there should be no nomination at all?

Mr. C. C. HULKOTI: That is not exactly what I say. I object to the official element, and there should be no nomination of officials. So far as the non-official element is concerned, I agree that there may be nomination. I think the interests of the Mahomedans in rural areas may be safeguarded by lowering the franchise still further, from Rs. 32, to Rs. 8, so far as the district boards are concerned. So far as the taluka boards are concerned, may I submit to the Honourable Minister in charge of the bill that the franchise of Rs. 8 should, if feasible, be still further lowered, so that the Mahomedans in rural areas may increase their voting strength by the lowering of the franchise? It should also be considered whether the principle of co-option should be given to these local bodies under the Local Boards Act if it is likely to help my Mahomedan brethren in rural areas. This question may be considered in the select committee. As I said Rs. 32, so far as the rural areas are concerned, is a higher qualification and it should be reduced to Rs. 16 or Rs. 8 or the same franchise may be adopted both for the district and taluka local

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local boards. Then there seems to be one more important omission so far as the franchise is concerned, namely, the property qualifications which were contained in the old Act. These have been entirely omitted from the new bill and the reason why they were omitted is not clear and, as stated by the Honourable Minister in charge of the bill, is not valid. It seems to me under the present provisions of the bill, persons owning lands but living within municipal limits are entitled to a vote but not those who own other property than lands. If the property qualifications are introduced just like those that were in the old Act many in municipal areas will be enfranchised. For instance, any man having moveable property worth about Rs. 2,500 instead of Rs. 5,000 as in the old Act, and every man who has an earning of Rs. 250 annually instead of Rs. 500 as in the old Act, must be enfranchised under the new bill. This qualification would, if introduced, enfranchise a large number of Mahomedans who live in the cities and in municipal limits, and also other people who live in municipal areas. As municipal representation has been entirely done away with, it seems proper and desirable that these people in the municipal limits should have the power of vote in the district as well as the taluka local boards. In the old Act there was reason for refusing the franchise to these people and the ground was that the municipalities had the power of sending their representatives to the taluka and district local boards, and therefore there was some reason for refusing the franchise to the people living within municipal limits. Now that reason is gone. Therefore, I think it is much better to enfranchise these people in order to have their say in the representation of the local boards.

Now I come to the provisions, so far as the school boards are concerned. As the matters stand at present the school affairs are entirely in the hands of the Educational Department, which department is entirely under the control of the local Government. I think, Sir, it is now high time that some changes should be made to empower these rural boards to exercise some effectual control in the matter of primary education within their jurisdiction. It appears to me that a provision for the first time has been made in this bill for the constitution of the school boards. Unfortunately, I find looking to the provisions that affect the school boards that there are serious defects, which ought to be remedied by the select committee. The constitution of the school board is again left to the rule-making power of the Government itself, and secondly the numerical strength also is not satisfactory, and it would be rather perplexing to note the various elements that are required to be represented on the school board. It makes provision for the minority, it makes provision for women and it also makes provision for people with educational qualifications, and we do not know according to the provisions in the bill whether these school boards are to be carved out of the members of the district local board itself or entirely distinct bodies completely independent of the district boards, so far as the control and management of schools is concerned. It was suggested yesterday by my honourable friend Mr. Pahalajani that these boards ought to be completely independent and that they should have definite powers and definite mode of control over primary education in rural areas, and taking this view to be correct, I beg to submit to this house that this provision, so far as the school board is concerned, may be very safely done away with, as it forms no part of this Act which is meant to control the district and taluka local boards.

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Then, it was claimed by the Honourable Minister in charge of the bill that it is intended by the new provisions in the bill that the control of primary education in rural areas should be more within the powers of the rural boards, but I beg to submit that the relations of the boards to the Educational Department are again entirely left to the rules to be made by the local Government under clause 133 and we do not know what the rules will be. All that the Council is asked to give an opinion now is as to the formation of a school board. However, I will suggest some likely powers that ought to be entrusted to such a committee. If at all a committee of the school board is to be formed, the committee at least should have the power of appointment, transfer and promotion of teachers in these schools, and it should have also the power of opening and closing schools and also the freedom of any selection of the curriculum in the rural schools. These ought to be entrusted entirely to the hands of these boards.

The Honourable the PRESIDENT: Order, order. The question of curriculum and internal administration is not a matter for legislation. It is an administrative measure.

Mr. C. C. HULKOTI: I bow to your ruling, Sir. I am not going any further into it, but I would only point out that the special officer that was appointed to report on local self-government has, I believe, recommended all such powers being given to a schools committee to be formed ....

The Honourable the PRESIDENT: In what bill ?

Mr. C. C. HULKOTI: I think it is Mr. Martin's report.

The Honourable the PRESIDENT: You had better drop it and not enlarge as it is an administrative matter. We have got to do now with the general powers of the school board and of the local boards.

Mr. C. C. HULKOTI: I beg to submit that a curriculum with a number of optionals, may be placed for selection in rural boards, so that they might have in hand a selection of one set of curriculum which is suitable for their own area. This is simply a suggestion which I make for adoption by the select committee.

Then, I come to the next point, the public health committee, which is to be appointed under the new Act. I only say one word with reference to this, namely that the sanitary provisions, which have been provided for in the new bill seem to me to be quite unworkable, and without an efficient staff it is impossible to carry out the provisions as detailed in the bill.

Now I come to the general provisions as regards finance and taxation. The Honourable Minister in charge of the bill told us that these rural boards have been given the powers of expanding their resources to a material extent; but, however, I do not agree in this respect with the Honourable Minister in charge of the bill. The only source of taxation which is given and which is likely to bring in a decent sum to some rural local boards is the assignment of a cess on water rates in their respective areas. But I beg to point out to the Honourable Minister in charge of the bill that in my district there are very few irrigation works, and also in other districts, such as Belgaum, Bijapur and others and it is not likely that this source of taxation would be a great source of revenue to those local boards. The other taxes which are suggested are those mentioned in schedule II of the Government of India Act. With regard

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to these, I would simply content myself with the remark that these taxes also are very difficult to collect and very expensive.....

The Honourable the PRESIDENT: May I ask whether you are not now repeating what has been said by half a dozen honourable members who have spoken on that point? I am afraid it comes within the Standing Order as to tedious repetition.

Mr. C. C. HULKOTI: I bow to your ruling, Sir, but I am only suggesting one or two taxes which are likely to be of use to these local boards. I am against raising the one anna cess to two annas. I beg to point out that the agriculturists in the rural areas are already heavily taxed and it is not desirable to tax them any further and I see a probability of discontent and agitation amongst agriculturists. Therefore, I wish to suggest other taxes for the consideration of the select committee. For instance, a tax on pilgrims who generally resort to shrines periodically in the different parts of the Presidency might be a good source of income and this point might be considered thoroughly by the select committee. I also wish to point out that a surcharge on income-tax would be a better provision and a provision which is likely to bring in a good deal of revenue to these local boards, and this would help them materially so far as finance is concerned. Further, it seems to me, it would be possible to have a license fee on all non-agricultural incomes and it can be very safely and without much trouble and expense introduced, and these taxes I have suggested in order to lessen the burdens of the agriculturists in the rural areas who, as I have already said, have been overtaxed.

With regard to official control, I beg to point out to this House that decentralization is the best remedy for removing apathy and indifference of the members of the rural boards and it is far better in the interests of the boards themselves that this official control should be relaxed. To my great surprise, I find that a number of additional provisions have been made in the last chapter, specially clause 128, which empowers the local Government to institute local enquiries into the affairs of the local boards whenever they think fit to do so. And the next power which is given is rather a very dangerous power, namely, the power of dissolution, which was not in the old Act itself.

So far as the machinery for collection of taxes is provided, as has already been said, it is rather expensive and it runs on the lines of the District Municipal Act. As the areas of local boards are bigger, it is not possible to have such a machinery. To illustrate my remarks.....

The Honourable the PRESIDENT: But I thought you had exhausted your remarks regarding the machinery for collection of the taxes. Instead of going to the head, you are going to the tail again. That is against the Standing Orders.

Mr. C. C. HULKOTI: For collecting the taxes, you have first to prepare and present a bill to every individual tax-payer, and then again a notice of demand, and then again a warrant has to be issued. This is an expensive process and extremely cumbersome.

The Honourable the PRESIDENT: You are again going back to the question of machinery for collection of taxes.

Mr. C. C. HULKOTI: May I submit that I am making all these remarks so that they might be taken into consideration by the select committee?

The Honourable the PRESIDENT : I have allowed honourable members to refer to the select committee, but now you are going back to what you have already said.

Mr. C. C. HULKOTI : With respect to the statutory limits which have been fixed at Rs. 200 in the case of roads and Rs. 2,000 in the case of buildings, I fear they will not be of great advantage to the rural boards, and this power seems to be quite illusory in these days of high prices. So far as buildings are concerned, it is a well known fact now that it takes nearly Rs. 3,000 or Rs. 4,000 to construct an ordinary school building and therefore all these constructions shall have to be handed over to the Public Works Department.

The Honourable the PRESIDENT : Is not that a matter of detail ? There is no principle of the bill involved in it. Is not that so ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Yes, Sir. The honourable member as a member of the board ought to know that.

The Honourable the PRESIDENT : I am not concerned with what the honourable member ought to know or ought not to know, but it is not a matter affecting the principle of the bill. It is a matter of detail which can be worked out in select committee and at the second reading.

Mr. C. C. HULKOTI : I bow to your ruling, Sir. One word more and I have done. As regards the abolition of the taluka local boards, I am against the proposal. That is all I wish to say.

The Honourable Mr. H. S. LAWRENCE : Mr. President, I think that this House is probably well satisfied that they have had a very satisfactory preliminary examination of the principles of this bill and that the result of the investigation of so many nooks and crannies may make for a saving of time when we come to the second reading. I take it, Sir, that your ruling that all these matters such as taxation, franchise, communal representation and so on, may appropriately be discussed at the second reading will render it unnecessary for us to anticipate any adverse vote at this first reading. I gather the same inference from the numerous references which have been made and which have been banned by you, Mr. President, to the possibility of committing this bill to select committee. In those circumstances, I wish to confine my remarks practically to one point only. I would, however, first of all, congratulate my honourable friend opposite, Sardar Modi, who has, I understand, just made his maiden speech, on his admirable survey of the general field. I should also like to console him a little. He seems to think that the Government have adopted some sinister design for robbing his district local board. Sir, I wish to assure him that we have not thought of robbing the Surat district local board. We have in the past, as I see from the figures here, subscribed no less than four and a half lakhs out of his annual revenue of seven and a half lakhs and since he has made a reference to the continuance of a particular subvention of Rs. 14,000 for excise, I assure him that we have not considered cutting off any subvention which has hitherto been paid to his board. I hope, Sir, that he may now look upon the bill with a less jaundiced eye.

I would now ask permission specially to refer to the point which has evidently aroused a certain amount of emotion and in regard to which I think it is particularly necessary that we should have a perfectly cool and reasoned judgment. I refer to the question of communal representation. From the remarks that have been made by honourable members from different portions of the Presidency, it is very clear that this question has assumed a very varying

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degree of importance in the different areas. In that happy country of Gujarat, owing, I think, probably to a very equal distribution of interests, castes and creeds, this question is evidently of very little importance, but elsewhere, for instance in Sind, it has been discussed frequently with burning heat. And the case of Sind is one which is especially illustrative and educative. You heard the honourable member Mr. Ojha explain to you in eloquent language how in Sind the influence of the adoption of this method of communal representation has led to better feelings and greater union and accord between the two sections of the population there. That, Sir, is the chief lesson which, I think, we can draw from experience which we have gained in this Presidency. In Sind you have the Hindus in a minority and the Mahomedans in a large majority, and communal representation, if it is adopted at all, will in Sind give protection to the Hindu interests as against the Mahomedan, and in respect of that fact you have here the notable instance of Sind Mahomedan zamindars expressing their vote in favour of communal representation in order that the Hindus may have a fair share on the district boards. Now, Sir, that is a very striking fact. It may be said that the Mahomedan zamindars are induced to adopt this view in order to give protection to Mahomedan interests in the Presidency proper. If that be so, it is a proper method in politics; and will the Hindus of the Presidency proper refuse to reciprocate in this matter for the benefit of the Hindus of Sind?

We have also heard several members state that there is no division of interests in matters dealt with in this Act. One honourable member who, I think, must have made a very cursory inspection of this bill, told you that it dealt only with roads and buildings. I think he must have omitted to notice those clauses which give power over matters of sanitation, which give power to the district local board to issue orders regarding grain markets, meat markets, slaughter houses; water supply, and in fact all those intricate details which affect our lives. How can it be said accurately that this bill deals only with roads and buildings, and will not affect those sections of the community which have so different interests and different points of view on these important matters of rural life? But, Sir, it is a common belief of human nature that persons who possess power and influence are themselves the best representatives of all the interests committed to their charge. We have seen that instanced in the history of representative government in England. We know that in former days, when the rich and noble had political power, they thought that the country would be ruined as soon as power devolved on the commercial classes. We saw again that when the commercial classes succeeded to power, they considered that ruin would follow if political power went into the hands of labour, and now since in recent years we have had labour interests represented in Parliament, we have seen far better feelings, better concord and far more harmonious working than in previous times. Similarly also, in the case of the representation of women, we used to hear that there was no such satisfactory custodian of women's interests as the men in power. Since that theory also has been given up, we find greater concord in political life in England, and when the British constitution was strained to the utmost during the Great War, we found all these interests combining, and they showed a most wonderful instance of concord and union. It is true that the case which I have taken may be stated not to be on absolutely parallel ground, for there is not in law, in England, any provision that requires the representation of these various interests either by men or women. Nevertheless, what the law omits to provide

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actually occurs through economic and social causes in that country. If you wish to have concord, union and good-will in administration, you get it not by ignoring conflicting interests, but by calling them into consultation. I think, Sir, the application of these remarks is sufficiently clear whether in the Council such as that in which we are now sitting or in the local board whose administration we are now discussing. I trust, Sir, that when we come eventually to voting on this most difficult and contentious question, all members of this House will feel that they should be actuated not so much by the local experience of their own particular locality as by the widest and broadest interests of the Presidency at large.

Honourable Members: Vote, vote.

The Honourable the PRESIDENT: I have got here the names of several honourable members who had risen and whom I should like to call upon to speak, unless the House desires that it should proceed to vote, in which case a closure must be moved.

Honourable Members: Vote, vote.

Mr. G. B. TRIVEDI (Thana District): I had risen on Saturday evening, and you told me that I would be allowed to speak on Monday.

The Honourable the PRESIDENT: To-day is Tuesday. Unless somebody proposes a closure, I cannot do anything.

Mr. F. NELSON: Sir, I beg to propose a closure.

The Honourable the PRESIDENT: Really I think we have had a very full discussion.

Mr. G. B. TRIVEDI: You may assign a time limit if you like.

The Honourable the PRESIDENT: I have no power to assign a time limit.

Mr. G. B. TRIVEDI (Thana District): Sir, much has been said on this bill, and I do not want to indulge in repetition, but the discussion that has followed on this bill has convinced me that the bill that is placed before us gives devolution of powers as recommended by the Decentralisation Commission, just as in the case of provincial Government as distinguished from the Imperial Government. But when our Councils were enlarged and when we got enlarged provincial Government, when we got this division of transferred and reserved subjects, and also when nation-building departments were placed under the Ministers, we were also given the sinews of war, and the discussion that has gone on on this bill has clearly proved that each and every district has voiced the feeling that is in the country that the bill (although they have not seen it, they have anticipated it) that is placed before the House is a bill for the devolution of power, for giving the local boards more functions, for giving them more obligatory duties and discretionary duties, but without providing the sinews of war. If you give us more duties.....

The Honourable the PRESIDENT: Is not this an argument which has been made by nearly every honourable member who has spoken before now?

Mr. G. B. TRIVEDI: I am making a comparison between the relations of the provincial and Imperial Governments and those of the provincial Government and the local boards. Unlike the provincial Government, the local boards are given more power without any fixed revenue. When these extended powers are given, Government must clearly assign a fixed proportion of the provincial

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revenues for the use of the local boards. The Honourable Mr. Lawrence just now said that he was not going to cut down anything that is being given ; I thank him for that. But where is the provision in the bill that a fixed proportion shall be given to the district local boards, when we assign to them a larger number of functions ? So, I say that unless you give the local boards a fixed part of the revenue and make provision for that proportion in the bill itself, the local boards will be left to the mercy of Government, and the Government, poor as it is, and with their own burdens of provincial administration, may turn round and say " We have no money ; you mind your business ; find the money by taxing yourselves ". It is all right to say that we are against taxation. I say that Gujarat is not against taxation, but Gujarat finds in this bill that Government has taken upon itself no responsibility for fixing the proportion to be given from the provincial revenue.

The Honourable the PRESIDENT : May I ask the honourable member whether he knows of any law in any civilised country which by legislation has fixed that a certain definite portion of its revenue ought to be allotted to any particular subject ?

Mr. G. B. TRIVEDI : I am coming to that.

The Honourable the PRESIDENT : Is there any instance ?

Mr. G. B. TRIVEDI : I shall give the instance of our own Government.

The Honourable the PRESIDENT : By law ?

Mr. G. B. TRIVEDI : Yes ; by law. Certain revenues are assigned like that : take for instance forest revenue. When the Imperial Government and the Provincial Government agreed to divide their finances, the Provincial Government insisted upon assigning certain fixed revenues to them. When you are going to give the district local boards further powers and functions, are you not going to assign them some fixed proportion of the provincial revenue ?

The Honourable the PRESIDENT : I am putting it as a point of order. Giving a fixed proportion by an administrative measure is different from prescribing by legislation a fixed proportion of the general revenues of the Government for a particular object or body.

Mr. G. B. TRIVEDI : The land revenue, and forest revenue come from rural parts, and if you take away all the revenues of the rural parts, and give us more functions, where is the money to come from ? Therefore, I want the Government to give a fixed proportion of provincial revenue. The Act of 1869 gave local bodies a certain fixed scale of revenue derived from Forests, Excise, and Salt. The present Act abolished it. Take the instance of my own district : we have got good forests and salt pans. The Government disallow us having any of these revenues : the big sources in my own district are denied to me. They do not take any responsibility to finance me. The bill is a mockery and insult to this House, unless Government comes forward and says that we are going to give you certain proportion of such and such revenue, and to allow you to have your own resources. If the Imperial Government objects to it, we should fight with them. Unless you do that, my district has asked me to strongly protest against this and say that they do not want any more functions, when the power to tap their own resources is denied to them, and when the Government gives only a few sources of revenue which are difficult to be

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collected, and asks them at the same time to do a number of things which they are unable to do. Therefore, the bill is a farce and mockery to them.

Mr. G. FINDLAY SHIRRAS: Sir, may I put in a word explaining what is being done in the United Kingdom? The honourable member for Surat, Mr. Gandhi, in the course of his speech yesterday put a question whether it was the case in the United Kingdom that Government assigned certain revenues annually to local authorities, in addition to the amounts raised from the rates. I have since looked into the data, and I find that the payments so made are comparatively small and are the proceeds of certain excise license duties, part of the beer and spirit duties, and part of the probate and estate duties. The main sources of local revenue are rates. In 1920-21 the payments to local taxation accounts amounted to nearly £11,000,000. Figures are not yet available of the total local revenue for 1920-21, and the latest detailed figures are for 1917-18, which show that the total revenue from rates, Government contributions, water, gas and electric light undertakings, tramways and light railways, loans, etc., was approximately £174,000,000, and rates alone amounted to over £75,377,000 of which £11,715,000 were from County Councils, £7,016,000 from urban districts, and £3,191,000 from rural districts. A major portion of the revenue comes from rates and the receipts from water, gas, and electric undertakings. The whole point is this: in the United Kingdom no large sums.....

The Honourable the PRESIDENT: Is such portion of the general revenues fixed by legislation?

Mr. G. FINDLAY SHIRRAS: No, Sir; not by legislation. The sums are equivalent to the proceeds in some cases of the year 1908-09 and in some cases of the current year.

The THAKOR of AMOD (Gujarat Sardars and Inamdars): Sir, I feel it my duty to congratulate the Government and the Honourable Minister in charge. I find that the fundamental defects and deficiencies have been left untouched. The local boards have been in existence since 1884, and yet we hear it said that the rural population is apathetic, and do not take a keen interest in local board matters, and that the attitude of members as a class is lukewarm. The Bombay Local Fund Act was passed in 1869, and not a pie of the local cess has been spent in several villages for years past. I think these disappointing results are due to the frame-work of the Act in existence.

The Honourable the PRESIDENT: The honourable member is reading his speech and going into a historical survey.

The THAKOR of AMOD: The main thing is this, Sir, out of the one anna cess they pay now, 4 pies is used for the educational advantage of other villages, as they themselves have no schools; 5½ pies for the district boards, and 2½ pies are spent in larger villages which are lucky in sending members of their own. And the result is, as I have already said, the poorer villages receive scanty attention. I may instance the case of the Azamnagar village. They have paid in the last 50 years Rs. 21,593 and not a single pie has been spent there. Another village Matarvato in the last 53 years has paid Rs. 22,586, but not a single farthing is spent there. The third village is Wadia—I have the honour of being the owner of it—and it is neglected absolutely. The cess paid is Rs. 27,000 but not a single pie has been spent there. And in another

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village, Ranipara, Rs. 14,000 has been paid, but except during the last three years nothing has been spent there. In the Amod taluka, where I live, the income is about Rs. 29,000, but we now get only Rs. 5,000 : we have got 52 villages and it is most difficult to meet their needs. What I propose now is that out of the one anna cess 4 pies should be set aside for education, 4 pies to the taluka board and 4 pies to the district board, and 2 pies out of the 4 pies allotted to the taluka board should be earmarked for the villages and handed over to the panchayats. Let the people know that they get something to do and that they have something to look after. I would suggest that some provision should be made in the bill to this effect and this may be considered in the select committee. The village panchayats are thought to be failures, but it is due to the fact that they get no share from the local cess. We people in Gujarat are in a very bad situation. Unless we give something to the panchayats, how can we tell the people that there will be something for them ? My suggestion is that if you give this 2 pies to the panchayats they will be a success.

Now, I come to the point of the inamdars, who have unfortunately been made a target to shoot at. Excluding Sind, the number of inami villages is about 267 in the Northern Division, about 1,046 in the Central Division and about 723 in the Southern Division, and I believe their claim is quite justified. It may perhaps be not suitable to send one member out of them to every taluka, but I see no reason why one out of them cannot be sent to a district board. They are a responsible and influential element. I do not want this thing on sentimental grounds. They are an influential class and they have worked usefully all the time and their work has been recognised by Government themselves. In the Wagra taluka in village Kalam the inamdar paid about Rs. 30,000 and he has got only Rs. 5,000. In the Zinibal village Rs. 3,600 were collected, but only Rs. 400 was spent. In the Khud Khundali village Rs. 3,600 was collected, but only Rs. 600 was spent. Not a pie was spent in the last ten years in Harinagar and Zinibal.

Now, a few words about Mahomedan representation.....

The Honourable the PRESIDENT : I think we have had enough of it. It should not be tediously repeated.

The THAKOR of AMOD : Then, I come to the important point of taxation. In the old Acts, III of 1869 and I of 1884, it was lawful for Government to levy one anna cess, but it was not obligatory on Government. And so Government was in a position to keep up their promises given now and then to talukdars, but now I find under the bill that it is obligatory on Government to levy a cess not exceeding 2 annas in the rupee. Under these circumstances, I fail to see how Government will be in a position to keep up the promises given by several Government resolutions that the cess will be charged only on the *jama* they pay to Government and not on the full assessment.

I do not think I need go into details at the first reading. With these words I support the first reading of the bill.

The Honourable the PRESIDENT : May I say to the honourable member that he has given us strong proof that he makes himself more effective by speaking than by reading, and hereafter I shall be very strict in not allowing him to read at all ?

Major-General W. E. JENNINGS : Sir, I move the closure.

Rao Bahadur R. M. NILKANTH: I want to speak, Sir.

Mr. M. A. HAVELIVALA: I too want to make a short speech and to refer to some historic points.

The Honourable the PRESIDENT: We will adjourn now, and resume at half past four, and I will then consider whether I should accept the closure.

*After recess.*

The Honourable the PRESIDENT: Order, Order.

Mr. B. P. PATEL (Ahmedabad District): Sir, I rise to oppose the first reading of this bill. Although the present bill is a distinct step in advance to train the villagers for local Swarajya, still it is not a perfect one. When villagers are going to be saddled with the responsibility, it is but fair that they should be consulted beforehand. If this bill is passed in hurry, a great injustice will be done to the villagers. On the 30th of August a large number of landholders of different villages gathered at my place, Aslali, in order to record their votes for a certain local board election when they made to me a serious complaint that, although they heard about a new local board bill coming before the September session, they were all ignorant as to what that bill was, namely, that they had not then got the translation of the bill. Sir, such an impression on the minds of the villagers is very bad; I mean if they once find out that the Council passes bills without caring to know the views of the public beforehand, they will begin to lose their faith in the present councils. Therefore, the first reading should be postponed to ascertain the views of the public. With these words, Sir, I oppose the first reading of the bill.

Mr. M. A. HAVELIVALA (Bombay City): Sir, I rise to give my whole-hearted support to the first reading of this bill and, in view of the several speeches that have been made by some of the honourable members of this Council opposing the principle of communal representation in the proposed bill, I, as a Mahomedan, would be failing in my duty if I were not to rise and make a few observations on that point. As you know, Sir, the Mahomedans in this Presidency proper are in the minority and they feel very keenly that the Mahomedans had not any adequate share in the affairs of the local administration. Individual representations were made from time to time to the heads of the departments and these individual representations eventually culminated into a very important deputation that awaited upon Lord Minto in the year 1906. That was the deputation not of any province, but it was an all-India Mahomedan deputation, and one of the grievances in that deputation was, as I said, that the Mahomedans being in the minority had no adequate share in the administration of local affairs. When that important deputation awaited upon the Viceroy, Lord Minto, he assured the Mahomedans as to what the Government of India then thought on the important question. This fact has not been touched upon by any honourable member here in the debate. I would beg to refer for the enlightenment of those honourable members who oppose the communal representation that it was at the request and at the wishes of all-India Mahomedans that the policy of communal representation was enunciated by the Government of India as far back as 1906. Then the representation of Mahomedans as a community was clearly promised in the municipalities and the district boards by Lord Minto, and it would not be out of place here to refer to that momentous assurance given in reply to the deputation on October 1st 1906. His Excellency then said:

"The pith of your address, as I understand it, is a claim that in any system of representation whether it affects the municipalities, a district board or a Legislative Council, in

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which it is proposed to introduce or increase an electoral organization, the Mahomedan community should be represented as a community. You point out that in many cases electoral bodies as now constituted cannot be expected to return a Mahomedan candidate, that by chance if they did so, it could only be at the sacrifice of such candidate's view to those of a majority opposed to his community, whom he would in no way represent. You justly claim a numerical strength in respect to the political importance of your community and the service it has rendered to the empire. I am entirely in accord with you."

This is the policy, Sir, enunciated as a result of that deputation sanctioned by the Secretary of State and followed successively by several provincial Governments and the Government of India. Even no mean authority such as the late Mr. Gokhale once also pointed out in the Legislative Council debate in the year 1901 that, although they conceded that the Mahomedans were in the minority and the Mahomedans could be adequately represented by nomination, still it would be better if the Mahomedans were given a special electorate. That is the policy, Sir, which is enunciated by the Honourable Minister in this proposed bill and it is unfair to lay criticism against him and to say that he has enunciated a policy of creating racial feeling and unpleasantness. I point out this, Sir, with a view to show that it was not a new and novel policy on the part of the Minister, but that it is policy affecting the whole of the Mahomedan community in India and that policy was asked for at the request of the Mahomedans in general, and accepted and followed by all the provincial Governments.

Then again, Sir, a criticism has been levelled against the communal representation on the ground of identical interests and creating racial ill-feeling. Much has been said on these points by several speakers who have supported the bill, but I would like to point out only one thing, Sir, that if there are any identical interests of the two communities they are in the Legislative Council much more than what they are in the local board of a province. I admit, Sir, that no doubt in the local board administration some interests may be identical, but I do say, Sir, that it would be foolish to deny that there are some matters of the highest importance where the interests of the two communities often clash. They have been pointed out by the Honourable Mr. Lawrence, and some more I can suggest and they are in matters of education, linguistic questions, music before mosques, employment and so on. These are matters vitally affecting Mahomedan interests in general and as experience shows they often clash.

The Honourable the PRESIDENT: Will you allow me to interrupt you a little?

Mr. M. A. HAVELIVALA: Very well, Sir.

The Honourable the PRESIDENT: For the guidance of honourable members, I should remind them that the rules to be observed in this House are that members during the sitting of the Council ought to keep their places, ought to enter or leave the House with decorum and ought not to read books, newspapers or letters. That is the Parliamentary practice. I observed an honourable member reading a book and therefore I thought it was my duty to say that the rule extended not only to newspapers, but also to books. Now you can proceed with your speech, Mr. Havelivala.

Mr. M. A. HAVELIVALA: In these matters, as I said, the interests of the Mahomedans would clash most materially with those of Hindus. I may point out only one case pertinent to this point. That is with regard to an

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appointment of the superintendent of the slaughter-house in the city municipality of Poona, an appointment which can very suitably be given to a Mahomedan, was not given to him, but to a Brahmin. Such being the case, the Mahomedans do, and very keenly, feel that their interests, specially in matters of education and employments, will not be served unless they have got proper representation on the local bodies, and in view of that, is it fair, is it proper, that the honourable members who have opposed the principle of communal representation should oppose it in the manner they have done ? I should think, Sir, that they should try to strengthen the bond of concord and harmony that prevail in the Bombay Presidency at present rather than impair it and embitter the feelings of the Mahomedans by denying special representation to them. These are the remarks which I wished to make and I would be failing in my duty if I did not make them.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Mr. President, one of the defects of the bill is that it tries to frame a very ambitious scheme, a scheme far too ambitious to be successful. The local boards under the present Act do not suffer from any paucity of duties and functions, but suffer rather for want of the means for discharging those duties and functions. The present bill, while retaining the duties under the old Act, adds to those duties, for instance, the duty of making provision for the training of teachers of primary schools, the registration of births and deaths, the appointment of a public health committee to administer the sanitary provisions of the Act and by-laws made for the purpose, and so forth. Now I submit that the training of teachers is a matter of higher education, which ought not to be saddled on to local boards, and so also, sanitary measures and the registration of births and deaths are matters which require detailed day to day administration which could not be carried on by a district local board, which has no compact area to deal with like a municipality, its area being spread over a wider area.

Another point on which I wish to speak is the scheme of taxation. I consider it is not fair. With the increase of land revenue, doubling of the local fund cess, and the house tax of the village panchayat, the rural areas, I submit, will find it very difficult to bear the burden of additional taxation. Besides, that taxation is not likely to give any great income to the local boards and the cost of collection will be very heavy. I therefore support the suggestion made by some honourable members that the local boards should have "assigned revenues," *i.e.*, subventions from provincial revenues guaranteed by statutory provisions and not left to the discretion of the executive Government.

On that point I will refer to what is done in England, particularly as you, Sir, have asked the question whether there is any precedent for such an assignment by statute of State revenues. In England the revenue which flows annually from the national exchequer into the "exchequer contribution account" of County (and County Borough) Councils comes from three distinct sources :—

1. All excise licenses referred to in the Act of 1888 as local taxation licenses, and specified in the First Schedule of the Act.

2. Four-fifths of one-half of the probate duties, *i.e.*, estates duties derived from personality.

3. The third stream of revenue which runs into the local taxation account of County Councils was set flowing by Mr. Goschen in 1890 when he imposed the beer and spirit surtaxes—an additional three pence per barrel on beer and six pence per gallon on spirits—for the further relief of local

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taxation (Customs and Inland Revenue Act, 1890, 53 Vict., c. 8). So, Sir, the question raised whether there are any instances of any assignment of revenues occurs here as in England in this instance.

The Honourable the PRESIDENT : That is by the finance bill ?

Rao Bahadur R. M. NILKANTH : What I gather is this, that at least in what is referred to as Mr. Goschen's Act a special surtax was levied for the relief of local taxation.

The Honourable the PRESIDENT : Yes ; but was it not a finance bill ?

Rao Bahadur R. M. NILKANTH : Of course, it was a finance bill.

The Honourable the PRESIDENT : There in the House of Commons there is first the introduction of the budget, then resolutions thereon, and, in accordance with those resolutions, what is called a money bill or a finance bill is introduced. Government can raise a surtax by a finance bill, but this is not a finance bill. However, you may point out the difficulties which may be created by this Local Boards Bill.

Rao Bahadur R. M. NILKANTH : What I submit is that, when Government impose certain duties on local boards, it is but right that Government should part with some part of the revenue and transfer the same to local boards. Otherwise, I submit that the new scheme is bound to work a great hardship on local boards and is likely to be wrecked on the matter of finance. All the duties which are assigned to local boards are to be discharged by them and if they do not discharge them properly, they are to be dealt with for default. I say there is not money enough to carry on the obligations imposed on the local boards. There will not be enough money to carry on primary education even after it is made compulsory.

Further, there is a proposal in the bill to make the levy of local fund cess obligatory and I associate myself with what was said by the honourable member, the Thakor Saheb of Amod. The talukdars of Gujarat are at present paying local fund cess, not on the amount of assessment, but on the amount of Jama which is less than the assessment. They believe that the new provisions would assail their ancient rights which are based on their historical position and supported by agreements between them and Government.

With regard to the remark of the Honourable Mr. Lawrence on the question of communal representation, I submit that the analogy which he gave of the nobility in England and the commercial classes of England being unwilling to part with power and being obsessed with the idea that they alone should exercise power and nobody else, does not apply. Those who oppose communal representation do not believe and do not urge that they alone ought to possess power. On this point I would submit that Hindus believe that the exercise of power ought to be shared by all classes, but what they object to is the perpetuation of cleavage which is believed to be most unfortunate and which prevents communities from developing a sense of identity of interests. That is a matter of very great importance. Sir, so much has been said on the point that I will not weary the House with any more remarks on communal representation and its demerits and disadvantages.

Only one more observation need I make as regards the abolition of taluka local boards. The honourable member Mr. Bhate said that he would rather prefer that there should be no district boards than that there should be no taluka local boards. I submit that there is now the Village Panchayats Act, which gives a panchayat to every village, and that there should be a certain

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amount of co-ordination in the administration of the district and that the abolition of the district local boards would make such co-ordination impossible. There being village panchayats and there being district local boards, taluka local boards would not be necessary. It has been found that their partly concurrent jurisdiction leads to considerable friction and a much better course would be to have committees of district local boards in charge of taluka affairs. With these remarks I resume my seat.

Khan Saheb A. A. GODAD (Northern Division) (Addressed the House in Gujarati): Sir, the people of my part of the country, namely, the Panch Mahals, are too poor to be burdened with any further taxation, as they already pay the one anna cess. I would therefore most strongly deprecate any attempt to impose additional weight of this character on my division.

In famine times we suffer from an acute scarcity of water. The wells that are there belong to ryots and not to Government. Some suitable provision should be made in famine times to supply us with enough water.

The forests are now closed. The population and cattle have been deprived of the benefit of fodder that was formerly available in forest areas. This grievance should also be removed.

It is my opinion that all the money collected in my division ought to be spent in my division only, *i.e.*, money collected in a particular taluka should be spent for the benefit of that taluka only.

I, of course, heartily approve of the rights that have been conferred on women in this bill.

Mr. J. B. PATEL (Kaira District): Mr. President, the great complaint I have got to make against this bill is that the Honourable Minister did not invite opinion of local boards concerned. My honourable friend from Ahmednagar said that Gujaratis were not willing to tax themselves for primary education. I can assure him and the entire House that it is not that we Gujaratis are unwilling, though capable, to tax ourselves, but the fact is that nearly eighty per cent. of the agricultural population in Gujarat are too poor to pay any further taxes. So far as my district of Kaira is concerned, nearly twenty-five per cent. of the agricultural population is living from hand to mouth—many have to go with one meal a day—more have to be satisfied with half a meal a day—many more still are obliged to be content with less than that. There are rich people living in cities and towns. I cannot understand why the Honourable Minister does not think of enforcing one anna cess on income-tax. People paying income-tax are in a position to bear greater burden of taxation. Why not tax carriages and owners of motor cars? These men are entirely left out. I do not know how many members will come forward for this bill if it includes a tax on owners of carriages and motor cars rather than a tax on the poor agriculturists of the rural areas.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Mr. President, I should like to reply to the several points that have been raised in this debate. A great grievance has been made by my honourable friends, specially from Gujarat, that the local boards were not consulted before this bill was brought in the Council. I may remind this House that the question of legislation for local boards has been engaging the attention of this Presidency since 1915. Several committees were appointed from time to time, evidence was recorded and a special officer was appointed to report. Besides, all the important principles that are embodied in this bill have been from time to time

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referred for opinion to the various local boards in this Presidency. Again, the bill was published on the 24th August 1922 and was sent to the members of this Council. When I look around me, I find there are several stalwart presidents of district local boards among the members of this House. Was it not their duty to call special meetings, and put the matter before the members of their respective boards ?

Again, Sir, since I have taken charge, I have been overwhelmed with requests to introduce such a bill, and when I do bring in a bill like the one before the House, I am asked to delay it, and my friends say they will not vote for it. What will be the result if the bill is delayed or the first reading is postponed ? There is another bill being brought forward by my honourable friend Dr. Paranjpye for making education compulsory. If this bill is delayed and that is passed, the local boards will not be able to introduce free and compulsory education, even if they desire to do so, after it is introduced in the municipalities. However, there is still enough time for the local boards to represent their views, and if they have any suggestions to make, they can make them to the select committee, where all their suggestions will be considered, and most of the stalwart presidents of district local boards who are members of this Council can also move any number of amendments they like. So, I think the local boards, from time to time, had ample opportunity of considering the whole question as all important matters including taxation were referred to them.

Now, I would like to deal with the question of taxation. It is not that Government are anxious to empower the local boards to levy taxes. Members of this Council, who were present at the first meeting of the Reformed Council, must remember that numbers of speeches were made on the subject, and it was asked when power was going to be given to the local boards to tax themselves, in order to enable them to replenish their resources, and it is to meet that wish that power to tax themselves has been given to the local boards. The honourable member for Thana district (Mr. Trivedi) complained that larger powers and privileges had been given, but that the sinews of war had not been supplied. I really fail to understand him. If he wants larger powers and privileges, he must undertake correspondingly increasing duties. But he says " No, let us have all the powers ; Government should supply the money." My honourable friend ought to know that all the taxes that are going to be levied are to be raised for services rendered. They are not for the benefit of Government, but for the benefit of the people in the rural areas, for their education, sanitation, roads, etc. It is not that they are making a gift to any one. The taxes will be levied for services rendered.

Then, Sir, I come to the taxes themselves. My honourable friend complained of the small powers of taxation which had been given to the local boards. He ought to know that Schedule No. II of the Government of India Act prescribes the taxes which the local bodies are empowered to levy. It is beyond my province to add anything to that schedule without the necessary sanction ; it is even beyond the province of the Government of Bombay. So, it is no fault of mine that the local boards have only been empowered to levy the taxes which this Schedule II authorises. My honourable friend also suggested some other taxes. First, he suggested that a fixed portion of the provincial revenues be given to the local boards. Suppose Government agrees to this, which is absurd, then the municipalities will come forward and say

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"All right, you have given the local boards a certain portion, give us also a fixed portion."

Then the Honourable Member for Law and Order will come and say "Earmark a certain proportion of the total revenue for me." Then another department will come forward with the same request, and there will thus be no end to it. Then again, some of my honourable friends, including Mr. Trivedi, have suggested two sources of taxation—salt and surcharge on income tax. If they would refer to section 81 (3) of the Government of India Act, they would see that

"The local legislature of any province may not, without the previous sanction of the Governor General, make or take into consideration any law affecting the public debt of India, or customs duty, or any other tax or duty for the time being in force and imposed by the authority of the Governor General in Council for the general purposes of the government of India."

Both these taxes belong to the Central Government, and we cannot impose them.

Then, they suggested two more taxes, one a cess on excise and the other a cess on forests. Now, with regard to excise, from the first day of the Reformed Council I have been hearing every honourable member urging ardently that we ought to do away with excise, as it is tainted money, and that we ought to have total prohibition; and to-day I am surprised to find my honourable friends asking for a cess on excise. Suppose Government accedes to their request, what will be the result? Instead of totally abolishing excise, I am afraid it might be kept up for the benefit of the revenue to Government and of the cess to the local boards. Again, excise revenue is provincial. Now, if you levy any cess on that, the contractors will take into consideration the fact that for every rupee thay have to pay one anna as cess to the local boards, and when they come to bid they will naturally bid less. The result is that you reduce the provincial revenues. If the provincial revenue is reduced, then you cannot turn round and ask for liberal grants from Government. You cannot have it both ways—asking for liberal grants and at the same time reducing provincial revenues. Suppose by that one anna cess several lakhs of the provincial revenue are reduced, how is the expenditure to be met? Should we then resort to fresh taxation? Or will my honourable friend suggest any other means?

Mr. G. B. TRIVEDI: I have not suggested any other means.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Similar is the case of the cess on forests. Government gets money by the sale of timber in the forests to the contractors. If a cess is levied on that, the contractors will take that one anna cess into consideration, and reduce their bids. In the result, we will reduce the provincial revenues. In fact, none of my honourable friends have made any practical and constructive suggestions as to the additional powers of taxation to be given. Some honourable members will say "You should have obtained the sanction of the Government of India for imposing a cess on some of their revenues." The Government will turn round and say "We have prescribed this schedule for all the local bodies in India. Have you taxed yourself to the fullest capacity before touching our resources?" What will be the reply? That we cannot tax ourselves?

Then, I come to the question of the procedure to be adopted for the collection of the revenue. Great objection has been taken to that. I am afraid that, had Government provided in the bill that it should be collected through

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Government machinery, several honourable members would have turned round and said that the talatis and the tapedars oppress the people and extort money from them.

An Honourable Member: No, no.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I am glad to hear that, but still I fear it would have been said that these subordinates pester the people, and all possible motives would have been imputed to them. Now, it stands to reason that, when we give powers of taxation to the local boards, we ought also to give them the authority to collect the taxes. If honourable members think that the boards are incapable of collecting them without incurring a large amount of expenditure, the question may be considered in the select committee. However, I should like to make one or two suggestions on this point. As panchayats will be introduced in most of the villages, they may be asked to collect the taxes on behalf of the district local boards. There then remains the question of the taluka towns. Some of the taluka towns have municipalities which are not affected by these taxes. Then, arrangements will only have to be made for the collection of taxes in the remaining taluka towns.

Then, with regard to the question of cess, it was contended by some of the honourable members that the cess should not be raised from one anna to two annas on the ground that it will be very hard upon the people residing in rural areas. But this is a discretionary provision. If the boards want more money, they may raise the cess not straight away from one anna to two annas, but by multiples of three pies. Then, the Thakor Saheb of Amod raised the question of Jama, but cess is paid for services rendered. The standard rate laid down is one anna in the rupee.

I then proceed to deal with some further objections raised by honourable members. My honourable friend opposite me contended that the whole body of the boards should consist of elected members. I think, like myself, he belongs to a minority from whom Government very often receives representation for nomination. If we accept that suggestion, what will be the result? All minorities will go without nomination. Again, it is contended that the proposed franchise of Rs. 16 or 32 for the district local boards should be reduced to Rs. 8 as in the case of the taluka boards. The strength of the elective element in the boards will be three-fourth under the bill. Thus, if there are 16 members for the taluka local board and 32 members for the district local board, 12 and 24 will be the number of elected members respectively. The same number of voters that elect members for the taluka local board will elect members for the district local board. That is, the electorates for the district local boards will be much larger than those for the taluka boards. Again it is contended that inamdars, persons having property other than land of the value of Rs. 5,000, persons having an income of Rs. 500 a year, pensioners, etc., are deprived of the right of vote under the bill: But all these persons will come in if they fulfil the qualifications prescribed in the bill, and there is thus no need for retaining these various qualifications. Under the Act, municipalities had a right to send members to the local boards. Persons residing in municipal areas got into taluka and district local boards, and tried to become presidents and vice-presidents without having any community of interest, or any real state in the district, and now this bill proposes to take away that right, and hence the stir among the articulate, as it is difficult for the residents of the city

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areas, without paying cess or other local tax to enter the local boards. Formerly, they used to do so without paying any taxes, but now that right has been taken away. The next thing that was suggested was that inamdars should be given representation on the boards. If that suggestion is accepted, what will be the result? A mere handful of inamdars will return numbers to these bodies. Again, it was urged that taluka boards should have representatives on the district boards. The result will be that the very object for which direct election is introduced will be frustrated. People residing in taluka areas and villages can come in by general election. If the suggestion of my honourable friend the Deputy President to do away with taluka local boards be accepted, the whole power will be centralised in the district local boards, while it is the object of Government to decentralise from larger to smaller units. If we accept this principle, we shall be stultifying the institution of panchayats.

Then the Honourable Sardar Khan Bahadur Dalal said that the village ought to be the primary unit. I might remind him that our primary unit of local self-government is the village panchayat, which can be established in any village or group of villages. He complained that people are not coming forward to form panchayats because there is no inducement for them. I think that is no fault of the legislature. There is a provision in the Panchayats Act that panchayats will receive, after taxing themselves, some contribution from the district local boards. They can claim those contributions.

Then, Sir, I come to the most important question of communal representation, against which all the forces of criticism have been directed. The Honourable the Deputy President quoted some old resolutions of the Government of Bombay and of the Government of India against communal representation, but he forgot to mention that after those resolutions were passed, the Government of Bombay accepted the principle of communal representation in the case of the Mahomedans in Sind. Further, the Government of Bombay had the question thoroughly investigated by Mr. Pratt's Committee which came to the conclusion that Mahomedans should be given separate representation by separate electorates. I am sorry that my honourble friend from Bombay, Mr. Purshotamdas Thakurdas, also joined the chorus. He said appealingly to this Council; "You must reject this principle, because you have done it in the case of the city of Bombay when the Municipal Bill was before you." Sir, I am not asking for separate representation for the city of Bombay; I am asking for it for the rural areas. The city of Bombay is a most cosmopolitan city, where it is not considerations of caste and creed that induce men to vote for a member, but the consideration of merit alone. Here I am asking for communal representation for the rural areas, where, as several speakers representing various communities have told you, people are torn by factions. Take the Hindu community itself. The Brahmins, the Marathas, the Lingayats and the depressed classes are at loggerheads with one another. The speeches made by their own representatives will show you why I am asking for separate representation. Then again, the honourable member from Bombay said that separate representation was rejected in the case of some of the minorities of Bombay when the Municipal Bill was before the Council. I wish my community was as much advanced as some of the communities that we referred to when the Municipal Bill was before the Council. Those minorities who were not given the right of separate representation when the Municipal Bill was passed by the Council are the minorities who are returned at elections, who have education, wealth and influence and who can represent their interests

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as they liked. But the Mahomedan community in the mofussil is neither educated nor wealthy nor influential and, above all, are not returned by election. This Council will be surprised to know that there are only 31 members on the district local boards in the three divisions of the Presidency from the Mahomedans, out of whom 15 are nominated and 16 are elected, and the total number of members of the district local boards is 309. Then, Sir, some members of the Council say; "We are all brethren. There is no necessity for separate representation." I hope they will excuse me when I suggest that everyone of us ought to set our own house in order before we commence preaching to others. Several members of this House representing sub-sections of the Hindu community have themselves bitterly complained that their interests are not safe in the hands of the other sections. Then, how can the Mahomedans with a different religion, and different traditions, consider their interests safe without separate representation? The honourable member from Bombay suggested a way of getting over the difficulty. It was that antiquated plea that Mahomedans can come in by nomination. I think we must do unto others what we would like to be done unto us. When we do not like nomination for our own community, we should not thrust it on others. But let us see if the Mahomedans can even come in by nomination. Now, we have got a majority of three-fourths elected members, and some boards might get four-fifths; at the same time, the claims for nomination are many. There are Government experts, there are those who are conversant with the administration of local boards, but who may not like to seek election; there are the minorities, such as the Parsis, the Indian Christians, the Lingayats, the depressed classes and other backward communities. Thus, as we go on increasing the elective element there will be very few places left for nomination and it is impossible for Government to meet the demands which may be made by several communities. Again, it was suggested that co-option would meet the difficulty, but it has been ruled by the President that co-option is outside the scope of this bill.

The Honourable the PRESIDENT: Have I ruled it so? I do not remember having ruled it as outside the scope of this bill. On the contrary, I said it was a matter of detail and can be considered in the select committee and at the second reading.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Then, I must make it clear to this Council that I am not asking for separate representation for the Mahomedans alone. As has been pointed out by the Honourable Mr. Lawrence to this Council, the Hindus are in a minority in Sind, and my honourable friend opposite to me (Mr. Pahalajani) one day told me that the Hindus ought to have separate representation in Sind. The Hindus will get it in Sind; here the Mahomedans should get it. Then the honourable Rao Bahadur Kale referred to the Montagu-Chelmsford Report, and tried to make out that the authors were against it. I might remind this Council that, while the Morley-Minto Reforms conceded communal representation only to Mahomedans in the Presidency where they are in a minority, the Montagu-Chelmsford Report has extended that principle to Mahomedans in Sind, where they are in a majority. Rao Bahadur Kale said that there were no communal matters coming up before these local boards, which need the presence of Mahomedan representatives. If that is so, then their presence cannot in any way accentuate racial differences. Why should honourable members of this Council, if there are no communal matters to be discussed, object to the Mahomedans coming in by separate election? But in point of

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fact there are important communal matters to be discussed. Take the case of education. In the first place, the Mahomedans of this Presidency claim that they ought to be taught in Urdu, and that has been recognised by Government, and now we are transferring the control of education to the local bodies. Will not the presence of the Mahomedans on the boards be necessary in the interests of their education ? Again, we are introducing compulsory education. Now for that, you require a large number of Mahomedans to go and persuade Mahomedan parents to send their boys to schools and this compulsion is to be used after some time in regard to girls also. Then, Sir, there is the question whether there should be mixed schools for girls and boys or separate schools. Unless you have separate schools in the commencement, girls won't come in. All these questions will have to be discussed by the local boards. Then, I may cite an instance of a dharamsala in Ahmedabad in connection with which there was an interpellation in this Council to the effect that Mahomedans were not allowed to make use of this dharamsala although it belonged to the local board. So, there do crop up questions as regards dharamsalas, wells, slaughter-houses, burial grounds and so many things which require to be considered by Mahomedan members. My honourable friend Rao Bahadur Kale says these local bodies are training grounds. I quite agree with him that these bodies are the places where people are trained in the administration of local affairs and are equipped for the discharge of higher duties in the Council and in other fields. If such important duties are learnt in these local bodies, will it not be deplorable that no Mahomedan should be trained therein ? What will be the result if none of them are trained and they are asked to join hands with others to demand more rights for India ? They will say we have got so many rights already and we do not benefit by them, and we do not want any more. It is your business to make them fit for asking for more rights. I may assure this Council that unless you give this backward community the necessary training, they will be drags on the progress of the country. If you once leave these backward classes behind, they will never care to go forward again.

Mr. PURSHOTAMDAS THAKURDAS: This applies with greater force to the depressed classes also.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Yes. Now, Sir, it is asked by the honourable member from Bombay why the depressed classes should not be given a separate electorate. I am quite in sympathy with them and I am quite willing to do that, but I would distinguish between the cases of Mahomedans and the depressed classes. As regards the depressed classes, in the first place it is so difficult to define those classes as there are so many sections of them. Then, they are not in sufficiently large numbers in all parts of the Presidency. I challenge any one to show me that the depressed classes are to be found in every part of the Presidency in sufficiently large numbers to deserve separate representation. A similar argument applies to the Parsis. You won't find large numbers of them in all places. Similarly as regards the Indian Christians. Again, the Honourable Rao Bahadur Kale deprecates communal representation for the Mahomedans, and in the same breath asks for separate electorates for the inamdars. He said that one Mahomedan was elected on a taluka board. He ought to have at the same time enlightened the Council as to why there is no Mahomedan member on his district local board. Again the honourable member for West Khandesh (Rao Bahadur Garud) said that a Mahomedan was elected

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president of a municipality. But he ought to have at the same time remembered that when His Excellency two months ago went to Dhulia that very President presented an address and asked for communal representation for the Mahomedans. The honourable member for Poona district (Dewan Bahadur Godbole) mentioned that Mahomedans have been returned on the Poona municipality in large numbers. I quite agree with him, but they have been given reserved seats by mixed electorates. As I have told you before, this is not a new principle; not only the Poona municipality, but some other municipalities also have given Mahomedans separate representation. It is by this means that they are returned to the municipalities.

Dewan Bahadur K. R. GODBOLE: Sir, I pointed out that two Mahomedan members were elected by the rural boards in the Poona district. In the Poona district those were elected on the taluka board.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, my honourable friend Dr. Batliwala said that I should accept the principle that certain number of seats be reserved for the Mahomedans by mixed electorates as is done in the Poona municipality. But it was not long ago that Government received a memorial from the Mahomedans of Poona in which they said that they wanted separate representation by separate electorates. Let me illustrate their case. Suppose there are 100 Mahomedan voters and 100 Hindus; and 95 out of the Mahomedan voters vote for one candidate and the 100 Hindu voters and the 5 Mahomedan voters vote for another candidate, the latter will be returned. But the successful candidate cannot be said to be the chosen representatives of the Mahomedans. Lord Minto also said that the Mahomedans should be returned by their own community.

Now, Sir, coming to the school boards, I must say at the outset that education in the local boards will be governed by the primary and compulsory education bill, which will shortly be introduced by my honourable friend. The very preamble of that bill says "Whereas it is expedient to provide for compulsory elementary education and to make better provision for the control of primary education in the Presidency of Bombay", and there is a provision that control should be given to the local boards to manage their primary education. Now clause 36 of this bill has been taken from that bill. It was asked by some honourable members why local boards should elect outsiders as members of their school boards. Well, that is done in the interests of education. A man who might be very well acquainted with education may not otherwise be a member of the board. If the school board is only constituted from the members of the local board, outside experts will be excluded. Therefore, this provision is made in order that the local boards may elect outsiders who may be experts in education. Then there is the case of the minorities, depressed classes, Mahomedans and others. Suppose none of them is on the board, their interests will not be represented. Therefore, it is made compulsory to elect representatives of the minorites. Then, there was some misapprehension regarding the right of the municipalities to send representatives on this board. The position is that each municipality by itself will not be given the right of sending a representative, but several municipalities together will be allowed to send one or two representatives on the board. However, that is a question of detail, and my honourable colleague, who is an expert in education will consider that point when he introduces his primary education bill.

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Then Sir, it was said that the powers in regard to sanitation given to the boards are all right, but it was asked how they are to carry out their functions. I would refer honourable members to sections 18 and 38 of the Panchayats Act. It is for the panchayats to attend to the conservancy work of the villages. Now panchayats are constituted in villages. When most of the villages have got panchayats constituted, this work will be carried out by the panchayats. As regards the taluka towns, we have given power to the public health committees to delegate their powers. The public health committee can delegate their powers either to members residing in a taluka, or to honorary or stipendiary officers of the board. I do not think there will be much difficulty in the exercise of these powers especially when panchayats are constituted all over.

Then, objection was taken to the registration of births and deaths being made an obligatory duty. It is, I think, necessary to make this an obligatory duty, but the real difficulty is as to the manner in which the boards will carry out that duty. But these details will be considered in the select committee.

Dewan Bahadur Godbole referred to the powers of the boards to spend money on railways, construction of tanks, etc., but if he were to read sub-clause (*m*) of clause 50, of the bill it would be clear to him that they can spend money on those works. As regards minor irrigation works, that is a reserved subject outside my province.

An Honourable Member: What about the powers to raise money?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Well, we have the Local Authorities Loans Act, under which provision is made for raising loans.

Dewan Bahadur K. R. GODBOLE: May I ask the Honourable Minister what provision is made for railways and tramways?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: You are allowed to spend money on them under clause 50 (*m*) which reads:

"Any other local works or measures likely to promote the health, safety, comfort or convenience of the public."

Dewan Bahadur K. R. GODBOLE: Is it not advisable to make special provision for it, by a separate clause or sub-clause?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: All right: we will consider it. Now, I come to the provisions regarding control. Much was said as regards the control.....

The Honourable the PRESIDENT: I do not think, Dewan Bahadur, that that is a matter of such great importance as to require a separate clause.

Dewan Bahadur K. R. GODBOLE: It is provided by a separate clause in the other Local Boards Acts in India.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, as regards control, it was suggested by some of the honourable members that Collectors and Commissioners should be deprived of their powers of control, but I regret very much that none of those honourable members made any suggestion as to what other agency should be adopted in their place. Now, suppose we take away all the powers of control, which are given to the Collectors and Commissioners, what will be the position? Wherever you go, you will find only one of two systems prevailing; either centralization or decentralization. In England, they have centralized the control in a central

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Local Government Board, which employs an agency, of inspectors and other officers for which they have to pay very heavily. Is this Council prepared to deprive the Collector and the Commissioner, who are on the spot, of their powers of control and to appoint an inspecting staff which would directly receive orders from me and execute them ? No constructive suggestion has been made by any honourable member.

Mr. G. B. TRIVEDI: I think Mr. Gandhi made a suggestion to replace the Commissioners. He suggested the appointment of a standing committee.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Supposing a standing committee is appointed and given the control which is at present given to the Collectors and Commissioners, may I ask the honourable member where that committee will meet ? Where will that body's head-quarters be ?

Mr. G. B. TRIVEDI: With you.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: With me ? Will it be at Bombay, Poona or Mahableshwar ? And what about their establishment ? How will they carry on without an establishment ? Suppose orders are passed at head-quarters. How will they exercise all the powers that are at present exercised by the Collector and Commissioner ? Suppose the orders are, to go and inspect such and such a record of the local body. Who will go ? Will not an agency be required ? I have given considerable thought to all these matters. There are only two methods, to centralize or decentralize ; or appoint your own agents who should take the place of the Collectors and Commissioners. Suppose the Minister wants to inspect the records of a local board. Whom should he ask to do that ? There must be some agency. Suppose a board passes an order which is likely to be injurious to the public, and I am sitting here, how am I to know that such an order has been passed ? You must look at it from a practical point of view. Then, what are the powers ? If a Collector suspends a board, the Commissioner is there to confirm it and finally it has to come before Government. Those officers have not been given final powers.

An Honourable Member: Government should be assisted by a board of this House.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: My difficulty is, what will that board do ? It will be merely advisory. Are the Minister and the board to sit together to decide by a number of votes ? Advisory committees rather have a tendency to delay work, they do not in effect exercise any power, what will they do ? I shall have to write to all the members and convene a meeting ; when they turn up, they may or may not come to a decision ; that will only delay work. If you want that your advisory boards should have an effective voice and their decisions be binding on the Minister, then the only course for you is to get the Government of India Act amended, which is beyond my province, because under the Government of India Act the Governor has to act with the advice of the Minister.

An Honourable Member: That is the reason why we suggest that there should be a standing committee of this House.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Will it be a practicable proposition ? On the other hand, in the present position,

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any action the Minister may take is subject to your vote, and you can bring any motion you like in regard to it. Besides, these powers of control are already exercised by the larger municipalities. If we take them away from the present officers, the Council should supply some other agency to exercise them. An honorary board will, I fear, only tend to delay matters.

I now come to the works of the boards. There is some confusion in the minds of honourable members in this matter. I must make it clear that even in the regular service of the Public Works Department, qualified assistant engineers have not been invested with the power of sanctioning plans and estimates—only the Executive Engineers have that authority—no plans or esitmates can be sanctioned by the assistant engineers except with the sanction of the Executive Engineers. In the Public Works Department, we have the supervising machinery of Executive Engineers, Superintending Engineers, Chief Engineers and so on. What will be the supervising agency that will be supplied by the district local boards ? There will be none.

Then, the bill provides for works. District local boards can frame their own plans and estimates of works whether they have competent engineers or not in their employ, to the extent of Rs. 200 per mile in the case of roads and of Rs. 2,000 in the case of other works. As regards the execution of works, Government has already given such powers to the limit of Rs. 10,000 to every board. If larger powers are desired, Government will consider the question if they find that the engineers employed by district local boards are really qualified engineers. Otherwise, what will happen is this ; suppose an engineer in the employ of a district local board says such and such a work will cost Rs. 10,000 ; who is there to check the correctness of his plan and estimate ? It is in fact in the interest of the district local board itself, and Government have no interest at all in the matter. However, this is a matter that can be considered by the select committee just as all other questions of detail raised by honourable members will be looked into by the select committee.

The honourable member, Mr. Pahalajani, says that the boards have no authority in regard to the employment of their own officers. I would refer this Council to clause 119 which allows the boards to appoint their own servants. At present the office establishment expenditure is borne by Government, yet the boards are given such wide powers of appointing their own men, but powers as regards punishment and dismissal are restricted. That is done in the interests of the boards themselves. Unless the officers of the boards are guaranteed their tenure of office, how can the boards get any officers to consent to serve them ? Even in the case of municipalities, unless three-fourths of the members agree, the higher officers cannot be dispensed with, without the approval of Government. Moreover the bill gives powers to the boards to delegate their power of appointment and dismissal to their presidents subject to certain restrictions, which powers are not even enjoyed by the presidents of municipalities.

I think I have replied to all the important points raised in the Council and I therefore hope that the House will pass the first reading of this bill.

**Bill read a first time.** Question put and agreed to.

The Honourable the PRESIDENT : There is one suggestion I should like to make with reference to the provision for a quorum in select committee. That ought to form an inevitable part of every motion for a select committee. The difficulty was brought to my notice in a select committee of which I was

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chairman. I believe the rule in the House of Commons is that, if no provision is made for the quorum, then every member must attend and if any member does not attend, the report of that select committee is regarded as null and void. Our Standing Orders say that, when any member is not able to attend either owing to illness or any other cause, then the chairman of the select committee must report to the President. Generally three form a quorum in a select committee in the House of Commons.

Another point is that any member of a select committee who is not present at any of its meetings and has taken no part in its deliberations owing to his absence must be prevented by the chairman from sending a minute of dissent as if he had attended and done his duty as a member of the committee. A member of a select committee may not be able to be present at all the meetings, but no member has any right to a dissenting minute when he has not attended any meetings of the committee and given the benefit of his views to other members. He has no right to put those views in a minute without hearing the views of other members in committee and discussing them.

Rao Saheb L. V. PARULEKAR (Ratnagiri District): Sir, I wish to move an amendment to this.

The Honourable the PRESIDENT: Amendment to what?

Rao Saheb L. V. PARULEKAR: I take it that the Honourable Member in charge wishes to proceed.

The Honourable the PRESIDENT: There is no question before the House to be amended.

Rao Saheb L. V. PARULEKAR: I take it that he wishes to proceed under Standing Order 5 (*b*) of Part VIII. So, I wanted to move an amendment.

The Honourable the PRESIDENT: He has not made any motion. Therefore, there can be no amendment. When he makes the motion to-morrow, then you may try to amend it as you like, and then I will consider whether it is in order or not.

## A BILL TO PROVIDE FOR THE REGULATION AND CONTROL OF TRANSACTIONS IN COTTON IN THE PRESIDENCY OF BOMBAY (BILL NO. XIII OF 1922).

(As amended by Select Committee.)

Second reading.

The Honourable Sir IBRAHIM RAHIMTOOLA: Mr. President, I beg to move that the bill to provide for the regulation and control of transactions in cotton in the Presidency of Bombay be now read a second time.

It appears to me that considerable misconception prevails in regard to the object with which this bill has been brought forward, and much difference of opinion has manifested itself under, what appears to me to be, a complete misapprehension as regards the scope and the object of the bill. I may inform honourable members that in 1919, in consequence of extensive speculation in the cotton trade, the trade approached Government for providing control over the cotton transactions for forward delivery. As a rule, Government are averse to interfere with trade in any article. But there may, however, be exceptions. If any important trade desires the assistance of Government and the legislature in exceptional cases, Government would not object to come to the assistance of such trade. In 1919, Government were satisfied that there was a

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case for interference in the cotton trade, and they brought forward legislation for the purpose, which was sanctioned by the Council. That legislation gave control to Government, because the board of control which was constituted under that Act had an official chairman, with a certain number of members nominated by Government. After a couple of years, considerable difference of opinion arose amongst the representatives of the trade, and they demanded the repeal of that control. Government's general policy being what I have already stated, they accepted the view of the trade and brought forward legislation for the repeal of the Cotton Contracts Control Act. The repealing bill was passed by the Council and it went, in the usual course, for the sanction of the Governor General. Before that sanction could be obtained, the leading representatives of the trade approached Government and earnestly pressed for presenting the repealing Act from coming into force. It was represented that the immediate effect of that legislation would be that certain elements which had arisen in the trade were going to upset the whole regulation of that trade. Government, after satisfying themselves that the representation was well-founded, managed to delay the sanction of the Governor General, in order that that Act might continue, at all events for some time. Afterwards that Act was repealed, and the trade came in for complete control and management by themselves. Difficulties appear to have immediately arisen, and they again approached Government for assistance. They constituted an association by name the East India Cotton Association, and asked Government to give it statutory recognition. It was represented to Government that all interests of the trade were unanimous in reducing the statutory recognition of the East India Cotton Association, and all that they wanted was legislation to carry that object out. The present bill is the outcome of that representation, and honourable members will have observed that it is not in any way on the lines of the previous legislation. Under the Cotton Contracts Control Act of 1919, the board was constituted with, as I have already pointed out, an official chairman, with a certain number of members nominated by Government. At present, the East India Cotton Association is representative of all the interests in the trade. They elect their own chairman, they elect their own board : Government have nothing to do with it. Government are merely coming to the assistance of the trade to give statutory recognition to that association, so that the trade may have the required authority to manage its own affairs. There is going to be no Government interference, and no Government control.

An Honourable Member : Just like a local self-governing institution.

The Honourable Sir IBRAHIM RAHIMTOOLA : Yes, quite so. Government considered that it was necessary, if they asked the legislature to give statutory recognition to the association, to have some power of seeing that the important cotton trade was fairly managed. Under the principles of local self-government, and following the analogy a little further, it will be observed that Government have provided control over the rules and regulations of the association. It may, therefore, well be taken that this legislation is practically on the lines of local self-government with control to a certain extent by Government.

Now, Sir, I said in my opening remarks that there appeared to be considerable misconception in regard to this measure, and I said so with special reference to the two minutes of dissent which have been made by two honourable members who served on the select committee. They seem to imagine that this

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association will have the power of fixing the rates of contracts, that the liberty of private persons to contract in cotton according to their own free will is going to be taken away, that the effect of the recognition of this association will be bearish and will reduce prices, that the agriculturists will be affected, and that in consequence the importance of Bombay city as the centre of the cotton trade will be adversely affected. Now, Sir, I think that the whole basis of the criticism is ill-founded. There is not going to be the slightest interference with contracts for ready cotton. Ready cotton which is brought into Bombay city can be purchased and sold at such rates as are acceptable to both and the association will have no control whatsoever in regard to these transactions. There are two other kinds of cotton contracts which will be controlled by the association. There are in Bombay and Ahmedabad a large number of spinning and weaving mills which consume a very large quantity of cotton for manufacturing purposes. Honourable members are probably aware that in many cases, the millowners sell their production consisting of yarn and piece-goods for delivery several months forward. In order to be able to do so, they have to get their requirements of cotton. They could not get ready cotton of the quality required for manufacturing purposes, and even if they do, they would have to stock it and incur interest and other charges. In order to protect themselves against a rise in the price of raw material, they enter into hedge contracts, that is to say, they buy forward either in the Bombay market, or in the American or Liverpool markets. In business circles this is not regarded as speculation, but *bona fide* transaction in order to make manufacturing profits secure. Any subsequent rise or fall does not thus affect them. It is for this reason that hedge contracts are in my opinion justifiable transactions and necessary in the interest of the cotton industry. If it stood there, there was nothing further to be said, but in consequence of forward transactions being possible, there are a certain number of people who enter into these contracts purely for the purpose of speculation. Some people expect a rise in prices, and others anticipate a fall and these people have so far as one could judge, no intention of receiving or giving delivery. The *bona fide* hedge dealers require a certain amount of protection in order that their contracts may be carried out as originally entered. Before any Government control was applied for, contracts for certain qualities of cotton, for instance Broach cotton, were entered into in September for delivery in April or May, and people sold or bought without being required to make any payment till the due date of delivery. In the meantime cotton prices being regulated by world prices, there are many fluctuations, and uncertainty exists as regards the capacity of these people to meet their obligations on the due date. Therefore, there was a tendency of over-speculation beyond the means of the people resorting to it. It was then felt that some kind of control should be resorted to in order to see that losses or profits do not accumulate for several months, and therefore it was decided that, every fortnight, there ought to be what is called settlement. Now, for the purpose of that settlement prices have got to be fixed and that is, I think, what has led to this misconception. If a man sells, say Broach cotton at Rs. 500 a candy for forward delivery and if the board fixes the price at Rs. 520 for an intervening settlement, the seller has to pay Rs. 20 to the buyer and the price of the contract instead of standing at Rs. 500 stands at Rs. 520. The fixing of the price does not affect the original contract, except that it becomes based on the price of Rs. 520. The payment by the seller

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of Rs. 20 per candy does not affect him as the contract price rises by the amount of such payment, and the original sale remains unaffected till the date of delivery. There must be some authority to regulate these transactions in order to minimise the risk and the liability on each contract. The price is not fixed by the board till the due date and, when the contract becomes due, representatives of the trade constituting the board fix the price of that settlement which is final. The intermediary fortnightly settlements are for the purpose of adjusting and keeping contracts standing. It is not the intention of the association or of the legislature to stop speculation. That cannot be done, but only to control it and bring it within narrow and reasonable limits. Some authority, it will be obvious to honourable members, is essential to carry out these transactions in the interests of the trade. The East India Cotton Association, which is representative of all interests in the cotton trade, is proposed as such authority and Government have brought forward this legislation to recognise it for the purpose. There is to my mind no foundation for the belief that this legislation is intended to reduce prices as stated by one of the members in his dissenting minute. There is no such intention. I may tell Rao Saheb Dadubhai Desai and other honourable members of this Council that Government will never allow themselves to bring in any measure which will in the remote degree adversely affect the agricultural classes. (Honourable members: Hear, hear.) The two interests which Government must safeguard are the agricultural interest and the interest of the city of Bombay having regard to its importance in the cotton trade. Nothing should, I think, be done which will have any effect of unnaturally reducing prices in the cotton market of Bombay, firstly because it would affect adversely the agriculturists, and secondly because such a result will have the effect of diverting cotton to other ports in India and the importance of the city of Bombay and its cotton market would be seriously affected. Government will not consciously be a party to any procedure which will lead to such results. The honourable member Mr. Ojha has twice interrupted me by pointing out that this is speculation. Well, to a certain extent, as I said, speculation cannot possibly be avoided. We have got the example of New York, which is the centre of an enormous quantity of cotton produced in America; we have got the instance of Liverpool, which is a very large centre for the consumption of cotton, and there such associations exist and such regulations are provided for. To a certain extent, this little amount of speculation is to my mind helpful, because it brings more demand for cotton, and therefore has, if anything, a little bullish tendency. The agriculturists stand to benefit by these movements rather than be adversely affected. At the same time, I have clearly pointed out that the association has absolutely nothing to do with the sale and purchase of ready cotton: that is a matter which is regulated outside the association and outside this bill. Therefore, if any one wants to purchase cotton up country, send it to Bombay and sell it at current market rates, this bill will not affect him.

There is only one thing more which I will say in concluding my remarks, and that is that I regret that an honourable member of the select committee should have thought fit to embody the following remarks in his minute of dissent:

> "After the discussion of the bill by the select committee was closed and the meeting was announced to be over, I departed. But afterwards I was informed that the meeting had resumed its sitting and had changed its previous decision maintaining the clause authorizing the extension of

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the Act by Government to the Bombay Presidency outside the City of Bombay, into the deletion of that clause, or, in other words, confining its operation to the City alone."

Sir, I may be permitted to point out that this is wholly incorrect. It is perfectly true that while considering the bill in select committee it decided by a majority to retain the provision for the extension of the Act by notification to other parts of the Presidency. The select committee was sitting and considering other clauses of the bill, when the honourable member said that he wanted to leave and catch the 3 o'clock train. Therefore, while the select committee was still sitting, he sought my permission to leave. The select committee proceeded with the discussion of the bill in his absence, and we subsequently reconsidered the whole matter and came to the conclusion that, as this bill was going to be applied only for three years and would be subsequently extended only if the trade wanted it, it would be unnecessary to bring in other parts of the Presidency within its scope. We then, in the absence of the honourable member, decided unanimously to delete that clause which provided for the extension of the Act to other parts of the Presidency and to restrict the operation of the Act to Bombay city. We, however, felt that it was due to the honourable member as he had opposed its extension to other parts of the Presidency, that he should know before he left at 3 o'clock that the committee had reconsidered the matter and had decided to exclude the power of extension to other parts of the Presidency.

Mr. G. H. KASSIM: May I correct that, Sir? I was distinctly told that the meeting was over, and I was permitted to leave. Otherwise, I would not have left the meeting at all.

Mr. PURSHOTAMDAS THAKURDAS: Sir, as a member of the select committee, I beg to confirm what the Honourable the Leader of the House has said. Mr. Kassim distinctly asked for permission to leave, saying that he was going by the 3 o' clock train and the committee was sitting when he left, and continued to sit 15 or 20 minutes more.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, the facts are as I have stated. I would not have taken any notice of it, but I think as the chairman of that committee it is due to me to contradict a statement of this kind when it is put in an official document which forms a part of the report of the select committee. So far as the select committee's report is concerned.....

Mr. PURSHOTAMDAS THAKURDAS: Was it brought to the notice of the Honourable the Leader of the House before it was put in in the select committee's report?

The Honourable Sir IBRAHIM RAHIMTOOLA: No; I first saw it in the dissenting minute.....

The Honourable the PRESIDENT: Now, that the point has been raised, I must say that remarks of this nature as to what was done in the select committee are absolutely improper. I am afraid the honourable member Mr. Kassim is rather very difficult to satisfy. (At this stage Mr. Kassim stood up.) I cannot allow the matter to proceed. It is a matter of domestic concern. And hereafter, if any such remarks appear, I hope they will be brought to my notice, and I shall see them eliminated. It is entirely a matter of domestic concern. I have no right to interefere whatever be the decisions of the chair-

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men of select committees. This is a matter entirely for the select committee and is not a matter either for me or for the Council.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, there is only one more point which I should like to bring to the notice of honourable members. When this bill was taken up, it was represented to Government that all the interests of the cotton trade were unanimous in demanding it. During the last two or three days it has been represented to us that the Bombay Millowners' Association would like to have it postponed. (An Honourable Member: Hear, hear). Before the honourable member supports that view, he ought to wait till he hears the whole of my explanation. I then called the representatives of the Millowners' Association, the Bombay Chamber of Commerce, the Indian Chamber, and of the cotton trade, and pointed out that the scope of the bill is misunderstood. The position is that the bill merely recognises the East India Cotton Association, which is representative of all the interests in the cotton trade and authorizes the making of rules subject to the sanction of Government. I also pointed out that until these rules were sanctioned by Government, the bill would remain inoperative, beyond recognising the association. I took the opportunity of giving an assurance on behalf of Government that as a disinterested party we would, as soon as we received the set of rules from the association, send it to the Bombay Chamber of Commerce, the Indian Chamber of Commerce, the Millowners' Association and such other representative institutions interested in the cotton trade in order to enable them to submit their suggestions and criticisms. When all these are received, Government will examine them and, if there is any conflict of opinion, Government will try to bring them together at a conference. The intention is that only such by-laws should receive the sanction of Government as will be generally acceptable to the trade as a whole.

In view of the fact that the elected representative of the Bombay Millowners' Association was on account of ill-health absent from this session of the Council, I enquired whether the President or the vice-president of the association would accept nomination, so that they would have an opportunity of explaining their views to the honourable House. They declined to be nominated and said that in view of the assurance given they did not wish to press for postponement. They made it clear that, though they were not quite satisfied, they did not wish to oppose the passage of the bill at the present session. Government could not, of course, give any guarantee that there must be absolute unanimity amongst all interests in the trade before they will sanction the rules, but they will take care to see that the rules and regulations will be of a nature generally acceptable to the trade as a whole. With these words, I trust the honourable members will pass the second reading.

Mr. M. A. HAVELIVALA: Why did the association want a postponement?

The Honourable Sir IBRAHIM RAHIMTOOLA: The reason was that there was now a crisis in the cotton trade and they required time to think out what was the best thing to be done. I pointed out that the bill did nothing beyond giving statutory recognition to the East India Cotton Association which was admitted to be representative of all interests in the cotton trade; that the rules and regulations would not be sanctioned till every interest in the trade had had an opportunity of considering them; that this

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procedure would give the association ample time to think out what regulations would be in the best interests of the trade and that only such by-laws would be sanctioned which would be in the general interests of the trade as a whole. It will be clear, therefore, that there can be no object in postponing a bill of this character. The opposition was, therefore, not pressed. I trust honourable members will pass the second reading.

The Honourable the PRESIDENT: Before I propose the question, I have already stated what I said is the defect of the dissenting minute of one of the honourable members on the select committee. May I also say with due deference to the dissenting minute of one honourable member, Rao Saheb Dadubhai Desai, that that dissenting minute negatives the principle of the bill? That could be done only at the first reading. As regards the second reading stage the minute says: "I am therefore of opinion that the bill sh ould notbe allowed to pass in the form in which it has emerged from the select commi tee."

That is in order so far, but the whole purport of the dissenting minute is to oppose the principle of the bill as a bill. That ought not to have been brought in at all for even a first reading. Now I think any honourable member who accepts his office as a member of the select committee ought to remember that, the House having affirmed the principle of the bill, he cannot destroy it in the select committee by attacking its principle totally. The bill must be preserved and may be modified. If the honourable member has any alternative suggestions to make, they must be proposed and considered, and if they are not accepted, then he must propose amendments.

Mr. R. G. SALGAR (Sholapur city) (Addressed the House in Marathi): Mr. President, I object to the second reading of this bill, No. XIII of 1922. My chief objection is that the provisions of the Cotton Act of 1919 are not at all advantageous to the buyers of cloth, but that they are advantageous to the millowners. The cotton trade is mainly based upon the transactions in Bombay and hence although the select committee has settled that the bill will be applied to the city of Bombay only, still it will affect the whole Presidency. The by-laws which are proposed to be made under clause 3 sub-clause (*e*), are solely in the interests of the Bombay traders. The fluctuations of the cotton trade do not affect the producers and therefore the cotton producers of the mofussil derive no benefit from the provisions of this bill. Not only that, but the provisions in this bill will cause a distinct loss to the cotton growers in the mofussil and in fact there ought to be no control on this cotton trade at all. I therefore oppose the second reading of this bill.

Rao Saheb D. P. DESAI (Kaira District): Sir, before the House consents to pass the second reading of this bill, I would just like to request the Council to take into consideration what I think about the origin of the bill. The bill is the outcome of a recommendation of the Indian Cotton Committee.....

The Honourable the PRESIDENT: I must warn honourable members that this is a second reading debate. The principle of the bill has been affirmed. By passing the first reading, the Council has affirmed the principle that there ought to be a regulation and control of cotton transactions by empowering a board to make by-laws. That is the principle affirmed and the debate ought to be confined to that without destroying the principle. It is not in order to raise any debate or arguments which would negative the very principle of the bill.

Rao Saheb D. P. DESAI: I just wanted to refer, Sir, to the history of the bill. As the Honourable the Leader of the House.....

The Honourable the PRESIDENT: I am not going to interfere with the freedom of discussion. I have merely given a warning as to the limits within which we have to conduct a debate for second reading.

Rao Saheb D. P. DESAI: Sir, the Indian Cotton Committee, first of all, recommended to the Government of India that an association representing the various interests in that trade might be constituted so that it might regulate the transactions in cotton in order that the speculation that is rampant in Bombay might be checked, and the committee went so far as to give the name of the association also. They suggested that the association might be named the East India Cotton Association. The Government of India, closely following on the committee's recommendations perhaps, arranged the union of the various conflicting interests that were prevailing in Bombay in such a way that they all combined, with the result that the East India Cotton Association was formed. We have to see on what principles that association is formed. This association in fact conforms to a sort of exchange that is usually found in such big cities as New York and Liverpool and other countries of Europe. But the difference between those exchanges and the Bombay exchange that is newly founded, or that will be founded under the bill, will be this: while the exchanges outside India are colourless exchanges, that is, exchanges specially formed by the brokers or by the commission agents, the rest being associate members of such associations having no voice in the decisions here in this association, along with the brokers there are various conflicting interests that are represented on the board of control of that association. That, I think, is rather a very weak point in the composition of the association. That is, if the section dealing with the representative panels that the Government have put in the bill is passed by the Council, it will not be to the interests of this country or the agriculturists who will stand to lose. Brokers are naturally colourless (Laughter). They bring buyers and sellers together. They are not interested in the prices, of course, in theory; but in practice they may be huge speculators, just like others in the trade. But in theory brokers are quite colourless (Laughter).....

Mr. PURSHOTAMDAS THAKURDAS: They should be.

Rao Saheb D. P. DESAI: We have to take them as colourless people, and I do not understand why on the analogy of the Liverpool and New York exchanges the cotton association of Bombay should not be formed, specially of brokers, and if along with the brokers the Bombay trade demanded that there should be other interests represented on that association, I should very well allow the representation of commission agents on the board, but never of merchants such as importers or exporters of cotton, also millowners, and others.

The point, Sir, that the Honourable the Leader of the House tried to make out that this association or the managing board of this association will not fix the prices to the detriment of the interests of the agriculturists is one that we cannot agree to. I rather think that a board of management of an association, composed as it is of various vested interests, if given the vague powers of fixing a price you can take it for granted, will fix a price which will benefit them and which will be injurious to the interests of the country. Merchants would like to have things cheap. For example, I may cite an instance. Even now though the bill is on the anvil, the price is being fixed

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by the managing board of the association at a far lower level than the actual price offered by the buyers. At this time some corner is going on. The man who has cornered the cotton says that he would like to take delivery of cotton at a certain price, while the price settled by the board is far lower than that.....

Mr. PURSHOTAMDAS THAKURDAS: Which do you approve of?

The Honourable the PRESIDENT: Order, order. Let the honourable member be allowed to go on uninterrupted.

Mr. PURSHOTAMDAS THAKURDAS: He need not reply to me if he does not want to.

Rao Saheb D. P. DESAI: Now, under the New York Cotton Exchange Act, that was passed by the New York legislature, there was no such power given by the legislature to the New York Cotton Exchange to fix the price. But here, in this bill, you are going to allow that body to fix its own price. Now, if we give power of fixing the price, the result will be that the board may fix a price which is lower than the price ruling in the market. At best it depends upon the sweetwill of the persons serving on the board, whether to declare the real market price or to declare one that is far lower than the actual price. In any case we may safely assume that by reason of the constitutional weakness inherent in the board of directors of the association, it cannot depend upon the natural course of prices in the market and so I would say that the board that is given such wide powers is not expected to give fair prices for cotton. I come now to the point of speculation raised by the Honourable the Leader of the House.....

The Honourable the PRESIDENT: These are all very good arguments for the first reading for negativing the bill and destroying its principle, but I am not quite sure that they are good arguments for the second reading. Of course, you may vote against the bill so as to reject it, but the arguments must be confined within the limits of the principle.

Rao Saheb D. P. DESAI: As the Honourable the Leader of the House has referred to speculation which is going on in Bombay, and that it was necessary to control speculation, I should just like to ask the Honourable the Leader of the House whether he has not.....

The Honourable the PRESIDENT: My duty is rather delicate. I must confine the arguments to the second reading subject to the affirmation of the principle of the bill by the Council. The Honourable the Leader of the House was allowed by me to go a little beyond relevant points, because I think I have already stated in this Council at two meetings that the Honourable the Leader of the House and the Leader of the Opposition are both allowed some liberty as regards relevancy and irrelevancy, but none else, and for the same reason, if you are the Leader of the Opposition, I will allow you the indulgence.

Rao Saheb D. P. DESAI: With regard to another point referred to by the Honourable the Leader of the House, namely that the spot prices of cotton will not be affected by the passing of this bill or by giving such a power of fixing the price, to the Cotton Association, and that the agriculturists will not consequently be affected, I think that the prices that the agriculturists receive depend upon the hedge contracts that are made in Bombay and that the price that the agriculturist gets depends upon the speculative prices that may obtain

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in Bombay because Bombay merchants do not buy direct from the cultivators but from the middlemen who make their purchases in the cultivators' homes. Both these class of merchants have to resort to speculative market to cover their transactions. So if you allow the association the power to fix the price, that association may fix a lower price and thus the agriculturist will be affected by being compelled to sell at a price that may be lower than the market price raging at the time and that would be, I think, to the detriment of the cultivators.

When it is understood that the interests of the cultivators and the interests of the country at large depend upon high prices being got for cotton which is an export commodity, I hold that this House will do well not to pass this bill in the form in which it is presented.

I have shown that the business of the association and the powers that are given to this association far exceed the powers possessed by the New York association. It is also objectionable that the determination of the number and classes of contracts should be one of the duties of the board, as it interferes with the natural course of the market as regards classes of contracts and the number of contracts that should prevail at a particular time in the cotton trade and the power that is given to the cotton association to fix the number of contracts also would go against the agriculturists as I see from the list of cottons allowed to be tendered against a particular type that cottons of varying qualities are being allowed to be tendered under each type. So I should think that such a power of tendering so many varieties under a particular contract or under a particular class should not be given to the association.

Mr. G. FINDLAY SHIRRAS: I am afraid, Mr. President, that there is a little misunderstanding on the part of the honourable member for Kaira rural. About twelve years ago I was a member of the Prices Enquiry Committee presided over by that distinguished Indian, Mr. K. L. Datta, and we went into the question of the fixation of prices with very great care. The honourable member for Kaira has put forward an argument which I do not think this House will for a moment agree to, and that is, that this East India Cotton Association, formerly the Cotton Contracts Board, controls the prices of cotton. I can assure honourable members that the price of cotton to-day in Bombay is governed by supply and demand. What this East India Cotton Association does is to determine that a certain market price was ruling on a particular day, but honourable members know that the price on the Cotton Green to-day depends on the demand in Bombay, on the demand from Japan and also on the supply of cotton both ready cotton and cotton which is to come to market. The Cotton Contracts Board broadened contracts that, is to say, widened the range of grades of cotton that may be tendered against contracts, established a clearing House and the net result was the control of speculation. Therefore, all that this Cotton Contracts Board did, and all that this East India Cotton Association is going to do, is to control speculation.

No one can have a greater sympathy for the welfare of the cultivator than myself. The honourable member from Kaira rural knows that Government has always been most interested in, and will continue to be deeply interested in the welfare of the man behind the plough who is the backbone of the country. Now, what is the result if you have no control? You have chaos, and some time ago when there was multiple control, that is to say, when there was no one body to control speculation, you got confusion—and how does it affect the

[Mr. G. Findlay Shirras]

cultivator? Chaos means that he does not get his price for the article produced by him. Why? Because an artificially high speculative price means in the long run detrimental to him. So it is, all things considered, that the price is governed mainly by supply and demand, and I want to repeat once more that all that this East India Cotton Association is to do is really to determine that the market price to-day (which is governed by supply and demand) is so and so, and consequently this is entirely in the interest of the cultivator, the man behind the plough.

Rao Saheb D. P. DESAI: Has the machinery anything to do with the lowering of the level of prices of any commodity? Supposing in any particular business you introduce complicated machinery, that has perhaps something to do with the lowering of the prices.

Mr. G. FINDLAY SHIRRAS: The honourable member is not correct. I wish he had come to the Cotton Green a few days and seen the machinery actually at work. It is not so in the case before the House.

Having dealt with the question of the fixing of the prices and the interests of the cultivator, I now pass on to the other point, namely, the question of the rules. Government, as the Honourable Member in charge of the bill has said, have to sanction every rule, before it comes into force. Think what that means. No rule which is not in the interests of the trade or the cultivator will ever be allowed to pass, and, more than that, Government have clearly stated that the bill is for three years. After gaining full experience, Government will only extend it if the trade wants it and Government are satisfied. So, I think, all things considered, this Council ought unanimously to pass the bill.

Before I sit down, I should like to say a word about what Bombay has acknowledged and that is the extraordinarily good work done by the chairman of the Cotton Contracts Board, during a very difficult time. Mr. Wiles worked like a Trojan, and I am sure that this House will agree that his work on the Cotton Contracts Board has been of first rate importance (Hear, hear).

The Honourable the PRESIDENT: Before adjourning, there is one point on which I hope the Honourable the Leader of the House, who is in charge of the bill, and other honourable members will bestow careful consideration. It is a point on which I feel some doubt, and it will have to be considered very carefully. I have not yet come to any conclusion, but I should like to have some light from the Honourable the Leader of the House and also from other honourable members. There is a clause added at the end which says:

> "Contracts for the purchase and sale of cotton entered into subsequent to 31st May 1922 and prior to the coming into operation of this Act under the rules or by-laws of the Association shall be subject to the provisions of this Act and of by-laws made thereunder."

That looks like giving retrospective effect to this bill. The Council is entitled to make an Act retrospective if it likes. But no provision having been made in this bill at the time of the first reading to give retrospective effect to it and as the definition of the word "contract" in this bill is "a transaction in cotton to be carried out", it is a serious question whether, as a point of order, it is not my duty to rule that the last clause goes beyond the scope and principle of the bill affirmed by the first reading. I hope it will be seriously considered before I give my ruling to-morrow. The clause introducing the principle of retrospective effect is very important, because

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the general rule is that no Act shall be retrospective, and no Act is to be interpreted as retrospective, unless there are words to that effect in the Act. The question was not debated at the first reading; no point was raised, and no hint was given, and the question is whether the select committee had the power to go beyond the scope of the original principle.

The Council is adjourned to 2 p.m. on Wednesday the 27th September 1922.

*Wednesday, 27th September 1922.*

The Council re-assembled at the Council Hall, Poona, at 2 p.m. on Wednesday, the 27th September 1922, the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BEDREKAR, Khan Bahadur I. M.
BHATE, Mr. G. C.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
CLAYTON, Mr. F.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA
DWARKADAS, Mr. KANJI
FERNANDES, Major C.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Honourable Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GODBOLE, Dewan Bahadur K. R.
GRIFFITH, Mr. F. C.
GULAMHUSSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HAJI KHAMISO GUL MAHOMED, Mr.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HAVELIVALA, Mr. M. A.

HAYWARD, The Honourable Mr. M. H. W.
HOOD, Mr. A. J. F.
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA.
ISRAN, Khan Saheb G. A.
JADHAV, Mr. B. V.
JENNINGS, Major-General W. E.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
KASSIM, Mr. G. H.
KER, Mr. J. C.
LAGHARI, Khan Bahadur KHAIR BAKSH
LAHORI, Khan Bahadur HAJI AMIRALI
LALBHAI AMBARAM, Mr.
LAWRENCE, The Honourable Mr. H. S.
LORY, Mr. F. B. P.
MEAD, Mr. P. J.
MODI, Sardar Davar T. K.
MOHIDINKHAN, Khan Saheb HAJI HAZRATH KHAN
MOHOMED SALAHUDDIN K., Mr.
MONIE, Mr. P. W.
MOUNTFORD, Mr. L. J.
MUTALIK, Sardar V. N.
NELSON, Mr. F.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PAINTER, Mr. H. L.
PARANJPYE, The Honourable Dr. R. P.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Honourable Sir IBRAHIM
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SAYED, Mr. MAHOMED KAMAL SHAH
SETALVAD, The Honourable Sir CHIMANLAL

SHIRRAS, Mr. G. FINDLAY

SURVE, Mr. A. N.

THAKOR of AMOD, Sardar NAHARSINGHJI

THAKURDAS, Mr. PURSHOTAMDAS

THOMAS, Mr. G. A.

TRIVEDI, Mr. G. B.

VICHARE, Rao Bahadur D. A.

The Honourable the PRESIDENT: Order, order.

## LOCAL BOARDS BILL (BILL No. XVI OF 1922).

*(Motion to refer the Bill to Select Committee.)*

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I move that the bill be referred to a select committee consisting of 18 members, of whom 7 shall form a quorum and that the committee do report before the next session of the Council.

Sardar V. N. MUTALIK: Seven is too small a number for such an important bill. I suggest that it might be 12.

The Honourable the PRESIDENT: Supposing that you do not get together 12 members at any meeting of the committee, that will be another way of wrecking the bill. In the House of Commons provision is made for a quorum and the quorum is usually 3. Do you insist upon your view?

Sardar V. N. MUTALIK: I merely suggested it.

Question put and agreed to.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I move:

> "That the select committee on Bill No. XVI of 1922 do consist of the following members: The Honourable Dr. R. P. Paranjpye, Mr. J. C. Ker, Mr. L. J. Mountford, Rao Bahadur G. K. Chitale, Rao Bahadur R. R. Kale, Rao Bahadur D. A. Vichare, Rao Saheb D. P. Desai, Khan Bahadur D. B. Cooper, Mr. B. G. Pahalajani, Khan Bahadur S. N. Bhutto, Khan Saheb A. M. Mansuri, Mr. Ibrahim S. Haji, Mr. O. Rothfeld, Mr. B. V. Jadhav, Mr. S. T. Kambli, Mr. M. W. Pradhan, Rao Saheb Harilal D. Desai, and the Honourable Khan Bahadur Shaikh Ghulam Hussain."

Mr. PURSHOTAMDAS THAKURDAS: Mr. President, it is now my painful duty to propose an amendment to the motion made by the Honourable Minister. I shall read out names of the members whom I am going to propose, and the qualifications of each one of them. Then it will be for the Council to decide.....

The Honourable the PRESIDENT: The procedure will be this: First how many names from amongst those in the Honourable Minister's motion do you accept? They will be put first and as regards the names your amendment proposes in the place of the rest in the motion, they shall have to be put afterwards.

Mr. PURSHOTAMDAS THAKURDAS: I do not wish to ask any one of the names proposed to be omitted. It is most invidious to have to say that A should be omitted and that B should be substituted in that place. I will, therefore, read out, and then the Council will decide how many have to be substituted.

The Honourable the PRESIDENT: You cannot avoid invidiousness. It is an inevitable part of the position you have taken up and it places me under the obligation of saying 'leave out so and so and substitute so and so'. I have to do that and that is the difficulty.

Mr. PURSHOTAMDAS THAKURDAS: There are persons in this Council who have done pre-eminent work in connection with district local boards. I find those names absent in the list read out by the Honourable Minister in charge. I have got a list in my hands with the qualification of each stated, which I will venture to put before the Council with your permission. Then those names which do not exist in the list of the Honourable Minister may be substituted if the Council agrees. Dewan Bahadur K. R. Godbole:.....

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Dewan Bahadur K. R. Godbole has declined to serve on the committee.

Mr. PURSHOTAMDAS THAKURDAS: Then it will fall through. I have not approached any single member to ascertain his desire to serve on the committee. Rao Bahadur S. D. Garud.

The Honourable Mr. M. H. W. HAYWARD: Sir, the House has already agreed to have 18 members. Is the honourable member in order in adding more names to it?

Mr. PURSHOTAMDAS THAKURDAS: The Honourable the Home Member has not caught my point. I do not want to add but I want to substitute certain names.

The Honourable the PRESIDENT: Your point of view ultimately comes to what I have stated: it is my duty to put it to the House. Please read out your list, and we shall see what names are common, and then I shall put that first: the other names which are to be substituted and are not common to the list of the Honourable Minister will be put afterwards.

Mr. PURSHOTAMDAS THAKURDAS: I am quite prepared to put the question in that way if it is necessary to go to that extent: I shall read out the names: Dewan Bahadur K. R. Godbole, Rao Bahadur S. D. Garud, Rao Bahadur G. K. Chitale, Rao Bahadur D. A. Vichare, Rao Bahadur R. R. Kale, the Honourable Mr. H. S. Lawrence, Sardar Davar T. K. Modi, Rao Saheb Harilal D. Desai, Rao Saheb Dadubhai P. Desai, Sardar Khan Bahadur A. M. Dalal, Mr. C. M. Gandhi, Khan Bahadur S. N. Bhutto (President of the Larkana district local board), Mr. B. G. Pahalajani, Mr. D. D. Gholap, Rao Bahadur R. M. Nilkanth, Mr. J. C. Ker, and Mr. C. C. Hulkoti, and the Honourable Minister in charge. The number is eighteen, but as Dewan Bahadur Godbole has declined to serve, my list is of seventeen.

Mr. KANJI DWARKADAS: Sir, I move that Mr. Purshotamdas Thakurdas' name be added to this list.

The Honourable the PRESIDENT: Yours is an amendment to the amendment, which cannot be allowed.

Mr. KANJI DWARKADAS: Then, I beg to withdraw it.

The Honourable the PRESIDENT: It is not a question of your withdrawing it: it is out of order.

The THAKOR of AMOD: Sir, not a single member has been taken from the landholders and zemindars.

The Honourable the PRESIDENT: Will you kindly act according to the rules? I have to put the amendment, and unless I put the amendment you have no right to speak. The amendment only mentions seventeen names.

Mr. PURSHOTAMDAS THAKURDAS: If you will allow me, I will add the Honourable Minister for Education.

The Honourable the PRESIDENT: You will have to move your amendment in these terms: " Leave out the following names from the question, namely, .....and insert instead the following names, namely,..... "

Mr. PURSHOTAMDAS THAKURDAS: I beg to move:

Leave out the following names from the question, *viz.*, Mr. L. J. Mountford, Khan Bahadur D. P. Cooper, Khan Saheb A. M. Mansuri, Mr. Ibrahim S. Haji, Mr. Rothfeld, Mr. Jadhav, Mr. Kambli, and Mr. Pradhan, and *insert* instead the following names: *viz.*, Rao Bahadur Garud, the Honourable Mr. Lawrence, Sardar Davar T. K. Modi, Sardar Khan Bahadur A. M. Dalal, Mr. C. M. Gandhi, Mr. D. D. Gholap, Rao Bahadur R. M. Nilkanth, and Mr. Hulkoti.

Sir, may I say one word before you put it to the vote ? All that I am anxious to convey to the honourable members whose names it has been my painful duty to move may be omitted, is that no reflection is meant on any of them. I feel very strongly that the Council ought not to overlook the names of those who have years of experience with the subject matter of this bill, but who happen to have the misfortune to differ from the Honourable Minister.

Mr. G. B. TRIVEDI (Thana District): I have only one word. From the discussion that followed from the first reading of the bill the House must have seen that the bill is one for local self-government and not for communal representation, and the names that have been proposed to be omitted are only of those holy members who have not shown much interest in the discussion of the bill from the point of view of local self-government, but only from the point of view of communal representation. And if the House feels that the question before the House is one of local self-government and not of communal representation, they must support the amendment of my honourable friend Mr. Purshotamdas Thakurdas.

Mr. IBRAHIM S. HAJI: Sir, I wish to oppose the amendment proposed by my honourable friend from Bombay. It is very regretful that the idea should be prevalent in this Council that the people from cities are not able to look after the interests of the mofussil. It is to be deprecated that a suggestion has been made that the Honourable the Minister in charge of the bill has proposed these particular names to the select committee because they are the persons who will carry through the principle of communal representation. I think this way of thinking ought to be checked. The names suggested by my honourable friend from Bombay were introduced to us with certain qualifications at their back, that they have been the presidents of this board or that board. In other words I do not like the suggestion that the persons whose names are to be omitted are the persons who lack abilities or lack interest in local self-government of the country, and I submit to this Council that the names submitted by the Honourable Minister and the names suggested in the amendment ought to be considered on their merits and no aspersions should be cast and no suggestion should be made that the persons whose names have been suggested by the Honourable Minister have not shown any real interest in this bill.

The Honourable Sir IBRAHIM RAHIMTOOLA: Mr. President, I had no intention of speaking on this point but I find that it is of importance that the composition of the select committee should be such as will be acceptable to the whole House. It is for that reason that I propose to address a few words to the

[Sir Ibrahim Rahimtoola]

Council. I do not know on what grounds my esteemed friend, the honourable mover of the amendment, has suggested the name of Mr. Lawrence in place of Mr. Mountford. Mr. Mountford is one of the Commissioners of Divisions and as such, has great knowledge and experience of the working of local boards. His presence will prove of great assistance to the select committee. The Honourable the Finance Member is so very busy that I do not think he will be able to find time to work on a committee on such an important bill which will probably require daily sittings. I should also like to point out how undesirable it is that not a single Commissioner of a Division should find a place on a select committee consisting of 18 members to consider a bill dealing with district matters. I do not wish to raise the question of communal representation, but as it has been introduced in the bill and on which there is bound to be a considerable difference of opinion, it appears to me hardly fair that no representative of the Mahomedan minority of the Presidency proper should find a seat on the select committee. The Honourable Minister has put three non-official Mahomedans on the committee. The honourable mover of the amendment turns out two and leaves only one Mahomedan representing Sind. There is therefore not a single Mahomedan from the Presidency proper on the select committee which will have to consider and decide the question of communal representation. Whether it decides in favour or whether it decides against it, there will be no opportunity open to Mahomedan representatives of the Presidency proper to represent their views to the large Hindu majority. To suggest that every Mahomedan member representing any part of the Presidency proper should be turned out of the select committee is a proposition which I trust the Council will not accept for a moment.

Apart from these two considerations, it will be observed from the list which the Honourable Minister has put before the Council, that he has taken great care in providing representation for all possible interests. He has not provided inordinate representation to any one Division in the Presidency or to any one communal or other interest; all interests, official as well as non-official, have been carefully thought out and put before the House, and I am sorry that such an amendment should have been moved by my esteemed friend Mr. Purshotamdas Thakurdas.

Mr. DIPCHAND T. OJHA (Karachi City): Mr. President, I do not want to speak as to the merits of the original proposition or of the amendment. What I want to know, Sir, is how are you going to dispose of the amended list as against the original list? Are you going to put to vote the amended list *en bloc* for it is possible out of the original list or the amended list some may vote in favour of one man and some may vote in favour of the other. If you put the whole amended list *en bloc* as against the original list, I do not know what will be the position. I may prefer one of the names or five names out of the eight proposed by my honourable friend Mr. Purshotamdas Thakurdas and then I shall be in an awkward position. I should rather like to see the name of a particular man in the amended list pitted against another.

The Honourable the PRESIDENT: I am going to follow the usual rule which I have all along followed in putting amendments before the House and you know that rule by this time. There is bound to be some inconvenience but in a matter of this kind I shall follow that rule. There are two ways of putting the names of members of a committee when there is a motion and an amendment to it—one is the usual and the other putting each name as against

[The President]

another. The amendment proposed follows the usual practice and I am bound to put it in the usual way.

Mr. PURSHOTAMDAS THAKURDAS: May I reply?

The Honourable the PRESIDENT: Yes.

Mr. PURSHOTAMDAS THAKURDAS: Mr. President, I fully appreciate the remarks and the reprimand if I may call it of my esteemed friend, the Honourable the Leader of the House to whom I always look for guidance under similar difficulties. I fully realise my shortcomings and my poor qualifications in preparing a list of names for a select committee on a bill like this. But, Sir, what I have done has been done as a matter of principle—as a matter of vindicating that this Council must have a select committee the names of which must be judged from the speeches delivered on the bill and that no name of anybody who may have taken a prominent interest in the subject before this Council or who may have made any caustic remarks regarding the bill should be omitted, either knowingly or unknowingly, for any reason at all. I fully appreciate the difficult position in which I am and which the Honourable Leader of the House has tried to point out to me. May I ask with all deference to him whether he has not overlooked the most important grounds on which my list has been prepared, namely, absence in the list of names which requires still to be justified? Why are the names of Rao Bahadur Garud, Sardar Dalal, Sardar Modi of Surat, names of persons who are known for the excellent work that they have done, especially the name of Sardar Dalal who is the one man in Gujarat who has been at the head of a district local board for some years now—I hesitate to guess how many years—and whose work has been acknowledged by everybody whom I see on the benches opposite? Is there any justification why the Honourable Minister should have omitted these names? Regarding the Mahomedan question, I can assure the Council that I was not guided when I prepared the list as to how the select committee as constituted by me is going to vote. The Honourable the Finance Member's name was put by me specially after hearing his views regarding this question and I must assure the House that his name was put in not because I felt that he might have leisure or not, nor because I did not know whether he has taken any prominent interest or part in regard to district local board work till now, but mainly because of his strong views regarding separate electorates and his very intimate and daily touch with conditions in Sind. That was the only reason why the Honourable the Finance Member's name was put in by me. I should have no objection at all to substitute the name of Mr. Mountford for that of the Honourable the Finance Member, but, Sir, I wish to show to the House what a difficult position they may be put in. May I ask the Honourable Minister in charge if he is prepared to have this question put off till say tea-time, and if he does not mind condescending to it, we will sit down at a common table and perhaps be able to submit to the Council a list which will meet with their approval and meet with the approval of people who think like me. There is a practical solution if the Honourable Minister will take it. If he will insist on his right and say "No, you must take what I give or leave it," then I must press for my amendment.

Mr. DIPCHAND T. OJHA (Karachi City): Can I, Sir, move an amendment?

The Honourable the PRESIDENT: Whether you can put in another amendment or not would depend upon the fate of this amendment. I cannot tell you now.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I need not, Sir, discuss the respective merits of the individual members who are proposed for the select committee in the original proposition or the amendment, because I do not like to make any remarks about individual members. But, generally speaking, I would submit, Sir, that, as pointed out by the Leader of the House, the amendment purposely drives out the representatives of the Mahomedan interests so as to create a division in the select committee. That in itself shows that communal representation is necessary. Again, the honourable member said that I have taken away all the names of those who have opposed the bill; but if the House were to scrutinise the names I have proposed, they would find that there are in my proposal both those who spoke for and those who spoke against the bill. On the other hand the amendment proposes the names of all those who are against the bill and takes away all those who have supported it. Among the names I have proposed is that of Rao Bahadur Chitale. Who can say anything against him? Then, Rao Bahadur Kale. Then, Rao Bahadur Vichare. He is neutral; he has not spoken on the bill, and we do not know his views. He is a representative of the Marathas and he ought to be there. Rao Saheb D. P. Desai spoke against the bill; he is there. Then, our Deputy President has spoken against the bill; he is there. Then, Khan Bahadur Cooper, who spoke for the bill. Then, Mr. Pahalajani, who spoke against the bill. Khan Bahadur Bhutto, who spoke for the bill. Khan Saheb Mansuri, who spoke for the bill. Mr. Haji, who has not spoken anything at all. Mr. Rothfeld. Then, Mr. Jadhav; he is the representative of the Marathas from the Central Division. Then, Mr. Kambli, a representative of the Lingayats. Then, Mr. Pradhan. In fact, I have taken every care to see that those who have spoken against as well as those who have spoken for the bill are included in the list, and I hope the House will reject the amendment.

Question put that the following names do stand part of the original question:—

Dr. R. P. Paranjpye, Mr. J. C. Ker, Rao Bahadur G. K. Chitale, Rao Bahadur R. R. Kale, Mr. D. A. Vichare, Rao Saheb D. P. Desai, Mr. B. G. Pahalajani, Khan Bahadur S. N. Bhutto, Rao Saheb Harilal D. Desai, and the Honourable Minister in charge.

Motion carried.

Question put that the names proposed to be left out do stand part of the original question.

The House divided. Ayes, 53; Noes 20. Motion carried.

*Division No. 4.*

**Ayes.**

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHIKODI, Mr. P. R.
CLAYTON, Mr. F.
COOPER, Khan Bahadur D. B.
CREAR, Mr. J.
DALAL, Mr. D. B.
GHULAM HUSSAIN, The Honourable Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GRIFFITH, Mr. F. C.
GULAMHUSEN, Mr. SULTANALI SALEMANJI HAJI, Mr IBRAHIM S.
HAJI KHAMISO GUL MAHOMED, Mr.
HALKATTI, Rao Saheb PRAKHAPPA GURUBASAPPA
HAVELIVALA, Mr. M. A.
HAYWARD, The Honourable Mr. M. H. W.
HOOD, Mr. A. J. F.
ISRAN, Khan Saheb G. A.
JADHAV, Mr. B. V.
JENNINGS, Major-General W. F.
KAMBLI, Mr. S. T.
KASSIM, Mr. G. H.
KER, Mr. J. C.
LAGHARI, Khan Bahadur KHAIR BAKSH
LAHORI, Khan Bahadur HAJI AMIRALI
LALBHAI AMBARAM, Mr.
LAWRENCE, The Honourable Mr. H. S.
LORY, Mr. F. B. P.
MEAD, Mr. P. J.
MOHIDINKHAN, Khan Saheb HAJI HAFFATH KHAN.
MOHOMED SALAHUDDIN K., Mr.
MONIE, Mr. P. W.
MOUNTFORD, Mr. L. J.

NELSON, Mr. F.
NIMBALKAR, Mr. K. B.
PAINTER, Mr. H. L.
PARANJPYE, The Honourable Dr. R. P.
PATEL, Mr. B. P.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Honourable Sir IBRAHIM.
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SAYED NABI BAKSH SHAH.
SETALVAD, The Honourable Sir CHIMANLAL.
SHIRRAS, Mr. G. FINDLAY
THAKOR of Amod, Sardar NAHARSINGHJI
THOMAS, Mr. G. A.
VICHARE, Rao Bahadur D. A.

*Tellers for the Ayes :* Mr. E. M. PROES and Mr. IBRAHIM S. HAJI.

**Noes.**

BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA.
DWARKADAS, Mr. KANJI.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA.
KALE, Rao Bahadur R. R.
MODI, Sardar Davar T. K.
MUTALIK, Sardar V. N.
NILKANTH, Rao Bahadur R. M.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. J. B.
THAKURDAS, Mr. PURSHOTAMDAS.
TRIVEDI, Mr. G. B.

*Tellers for the Noes :* Mr. G. B. TRIVEDI and Mr. PURSHOTAMDAS THAKURDAS.

Bill referred to select committee.

Original question put and carried.

Mr. B. G. PAHALAJANI (Western Sind) : Sir, in view of the importance of the bill and the many interests concerned, I move that the select committee may be authorised to hear expert evidence and representatives of special interests affected by the measure. There is provision for this in Standing Order 6 (4) of Part VIII.

The Honourable the PRESIDENT : The Standing Order provides for that :

"A Select Committee may hear expert evidence and representatives of special interests affected by the measure before them."

You do not want any instruction for that. The select committee has already the power.

Mr. B. G. PAHALAJANI : In that case, I beg to propose that the select committee shall hear expert evidence.

The Honourable the PRESIDENT : You cannot make it obligatory when the Standing Orders make it discretionary. That would be overriding the Standing Orders.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I beg to propose that the words "within two months" be substituted for the words "before the next session."

The Honourable the PRESIDENT : The House has already decided that ; we cannot go back upon it, as the Council has by accepting the Honourable Minister's motion directed that the committee has to report before the next session of the Council.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : In the Standing Orders it is said that the committee shall report ordinarily within two months.

The Honourable the PRESIDENT : If, before the next session the select committee is not able to do it, then you may get an extension. In any case, when the Council has once decided, I cannot re-open the matter.

The Honourable Mr. M. H. W. HAYWARD : I submit, Sir, that if the original motion is allowed to stand as passed there may be this difficulty : Supposing that this session is merely adjourned and not prorogued, then it would not be possible to take this bill up again at the adjourned meeting but only at the next session.

The Honourable the PRESIDENT: Before the next session means at any time before the next session which gives the utmost limit of time. It does not say *at* the next session.

The Honourable Mr. M. H. W. HAYWARD: I understand, Sir, it means that it is open to the select committee to report eariler if they like and if they can do so, and that their report can be taken up at the adjourned meeting.

The Honourable the PRESIDENT: Yes, before the next session at any time.

The Honourable Mr. M. H. W. HAYWARD: I see, Sir, it is so, as you say.

## COTTON TRADE CONTROL BILL (BILL No. XIII OF 1922).

*(Motion for second reading resumed.)*

The Honourable the PRESIDENT: Has the point which I raised just before adjournment last evening been considered by the Honourable the Leader of the House?

The Honourable Sir IBRAHIM RAHIMTOOLA: Mr. President, if you will permit me, I will explain the object with which that clause was introduced, and make it clear that no new principle has been introduced thereby. The clause runs:

"Contracts for the purchase and sale of cotton entered into subsequent to 31st May 1922 and prior to the coming into operation of this Act under the rules or by-laws of the Association shall be subject to the provisions of this Act and of by-laws made thereunder."

You will observe, Sir, that this clause really provides for uniformity in contracts of cotton for forward delivery entered into under the rules of the East India Cotton Association from the 1st June onwards. This bill may pass now and may receive the necessary sanction of superior authorities within the next few days. The rules and regulations will have then to be submitted to Government. They will necessarily take some time to sanction them. As soon as they come into operation, new contracts will be made under the sanctioned rules and regulations. There will therefore arise the difficulty that contracts entered into up to that date under the present rules and contracts entered into subsequent to the sanctioned rules will be governed by different sets of rules. The new clause has been added to the bill with the intention that if the sanctioned rules are to the benefit of both the purchaser and the seller, then the old contracts will get the benefit of such rules. It is not a new principle but merely a provision to bring about uniformity in the rules and regulations governing all contracts.

The Honourable the PRESIDENT: The difficulty which suggested itself to me last evening is solved. It was my duty to bring it to the notice of the Council. If a bill is prospective in principle when introduced and read the first time, you cannot make it retrospective in the select committee because the question whether it is to be prospective or retrospective has been decided at the first reading. In this bill I see now that the word "contract" is defined as meaning "a transaction in cotton to be carried out". Clause 7 added by the select committee relates to contracts entered into. So the prospective principle of the bill that it is to apply to the carrying out of contracts is kept intact and clause 7 does not conflict with that. Therefore it is in order.

Mr. A. N. SURVE (Bombay City, North): I rise to oppose the second reading of this bill. Sir, this bill is of the nature of a private bill according to the Parliamentary practice. We have not that distinction in our Councils. We have here Government bills and private bills. Government bills are those

[Mr. A. N. Surve]

which are introduced in this House from the Government benches and private bills are those which are introduced by the non-official members of this House. But in the Parliament the practice is different, and also the terminology is different. There the bills which are in the interests of a private person or private persons are said to be private bills, therefore I submit that the present Cotton Bill being in the interests of the East India Cotton Association is a private bill. Mr. Erskine May has described the procedure that is followed in the House of Commons and he has also stated why a different practice is followed in the case of private bills. I am reading at the bottom of page 607 of "May on Parliamentary Practice". It is a very short paragraph :—

"Passing now to existing practice, the proceedings of Parliament, in passingprivate bills, are still marked by much peculiarity. A bill for the particular benefit of certain persons may be injurious to others: and to discriminate between the conflicting interests of different parties involves the exercise of judicial inquiry and determination. This circumstance causes important distinctions in the mode of passing public and private bills, and in the principles by which Parliament is guided."

Sir, in this paragraph it is stated that the interests of an individual and other individuals may conflict and therefore Parliament makes a distinction between the passing of a public bill and a private bill. Then a little further down the practice of passing private bills is described. I am still on the.....

The Honourable the PRESIDENT : How is that relevant here ?

Mr. A. N. SURVE : Sir, it is relevant in this way. We are not bound by the Parliamentary practice but I am trying to show that the rules of Parliament are based on the experience of many years.

The Honourable the PRESIDENT : The rules of Parliament are based upon the experience of centuries, but fortunately or unfortunately for us that experience is not utilised by the legislature in the Rules and Standing Orders for our benefit here. So we have to go according to our Rules and Standing Orders and there is no distinction between a public bill and a private bill so far as we are concerned.

Mr. A. N. SURVE : Sir, certain cautions are observed. Private bills of the nature of the present bill are not very frequent in our Council and as they are very rare I beg to submit that wherever we can adopt the Parliamentary procedure so far as it relates to the safety of public interests we should follow it. That is my humble submission, Sir.

The Honourable the PRESIDENT : But that is a question for altering the Rules and Standing Orders and altering the Government of India Act. It is not relevant to second reading.

Mr. A. N. SURVE : I bow to your ruling, Sir, and further urge that apart from the Parliamentary practice, we are rushing through this bill. It was stated in the last session that this bill should be passed through all its stages in one session. I am very glad to say that the Honourable the Leader of the House did not comply with the request that was made to him by the promoters of this bill. Sir, this bill is of a retrospective nature, so far as the rules are concerned. If you look to the third para. of clause (3) you will see that the rules which are not yet framed are to be binding on the parties who have already entered into contracts. The rules, the Honourable the Leader of the House has said, have not yet been framed. They are to be framed hereafter and when they are framed the Government will consider and circulate them among the chambers for their opinions, and if there is any difference of opinion,

[Mr. A. N. Surve]

the Honourable the Leader of the House has told us that he will follow the majority opinion and give sanction accordingly. Sir, I think it is very unfair to the trade to give retrospective effect to the rules which are not in existence and to which some may not consent. Then the last thing is that the Honourable the Leader of the House has assured us that this bill does not refer to contracts in which ready goods are to be delivered, but if you go through the clauses of this bill, I am afraid that ready goods also fall within its purview. If you look to the definition of contract, it is stated there

"'Contract' means a transaction in cotton to be carried out in whole or part in Bombay;"

It does not differentiate between a forward contract and a contract for ready goods. I ask, will the Honourable the Leader of the House differentiate between the two contracts by inserting the word 'forward' before the word 'transaction' in that definition? If this word is not inserted, what will happen? If a man enters into a contract, and there is any dispute, and that man goes to a court of law, then under the 5th clause, as the contract is not in accordance with the rules of the association, the court will hold the contract to be void, and the man will have no remedy, in spite of his contract being for ready goods. For these reasons, I beg to oppose the second reading of this bill.

Mr. F. NELSON (Bombay Chamber of Commerce): Sir, I rise to support the second reading of the bill. The recent happenings in the cotton market have caused me, in common with all those who have the interests of Bombay as a great cotton centre at heart, great misgivings, and I have come to the conclusion, after the most careful consideration, supported, I may add, in my opinion by the cotton interests of my constituency, that it is eminently desirable for the East India Cotton Association, which is at present controlling the cotton trade of Bombay, to receive statutory recognition by Government. In all large markets where large quantities of any staple product are bought and sold, there will always be found a certain number of traders who are convinced that the price of the particular commodity in question will go up and a certain number of traders who are equally convinced that it will go down. Each of these interests will operate accordingly, having regard to what they consider their business commitments are likely to be. This is what we call 'taking a view of the market' and the present day conditions of competition virtually force a trade risk of this kind on to a majority of traders. This is perfectly normal and is the natural working of the law of 'supply and demand', as applied to modern business conditions, but it is a very long way removed from the operation known as a 'corner', which has for its object the acquisition of the entire crop of a certain type of cotton, or at any rate a great majority of the quantity available in order that, when a trade demand for this type of cotton arises, the trader will be forced to pay whatever price the originator of the 'corner' may then be in a position to demand. To those honourable members who fear that the interests of the grower are not safeguarded by this bill, I may say at once that the cultivator does not benefit by the artificially enhanced prices. In fact, there are nothing but bad results. During the last few months, no less than three of these 'corners' have taken place, and it is my earnest desire and hope that by passing this bill into law we may be initiating the first step towards the prevention of this type of operation in future. Speculation can never be eradicated, but it may be controlled up to a certain point. The obvious remedy is a widening of the contract, and I hope we shall be fortunate enough to hear Mr. Purshotamdas Thakurdas

[Mr. F. Nelson]

shortly, who is one of our acknowledged authorities on cotton. He will do better justice to this highly technical subject than myself.

The inferential compliment which my honourable friend Rao Saheb Desai, perhaps unwittingly, paid me in suggesting that the board of the East India Cotton Association should consist of brokers places me in a somewhat difficult position as to how I can logically demolish his suggestion. He characterises brokers in so far as their calling is concerned as colourless. May I be permitted to say, Sir, that curiously enough that is one of the few qualities or defects—I am in some doubt as to under which head these should fall—that I have so far not heard applied to the profession to which I have the honour to belong. Seriously, however, we must bear in mind that we are seeking statutory recognition for a body which is controlling the many-sided cotton trade of Bombay, and as such it is surely essential that all interests should be represented. This, if I may say so, is the elementary principle of local self-government. I am robustly confident in the ultimate good sense of the cotton trade, or the interests that go to constitute the cotton trade of Bombay, realising, as I feel certain they do, that the prosperity not only of this great trade but also to a large extent the prosperity of the whole port is bound up with such measures being devised as may be calculated to dispel this pestilential miasma of speculation which is vitiating the whole of our commercial atmosphere.

Now, let us not be under any misapprehension. This is no governmental control of the cotton market: it is merely a desire to vest the government of the trade in a central body, counting upon the good sense of that trade to evolve and submit in due course a just and equitable set of rules and bye-laws for the sanction of Government under the Act.

Now, Sir, in conclusion I wish to tender my thanks to the Honourable Member in charge for his very lucid exposition in moving a second reading of the bill. At the same time, may I ask him to take the opportunity, when he replies, to assure the House that the date on which these sanctioned rules will be brought into force shall only be decided upon in consultation with the trade? With these words I strongly support the second reading of the bill.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, I have to say very few words in connection with this bill. I have no doubt, so far as my knowledge of the cotton trade goes, that this bill is bound to do good to the cotton trade. The cotton trade of Bombay is the premier trade in the Presidency and as a matter of fact in the whole of India, and it should be the aim and object of this Council that that pre-eminence should be maintained.

Another point of which I know by experience is that this East India Cotton Association, by these statutory powers that they require, will be able to check speculation. It will not in any way injure the interests of the cultivators: on the contrary, I am inclined to believe that it will give them full prices when the produce is marketed. The element of speculation in forward contracts and hedge contracts is always present, but in ordinary industries and big organized trades you must always take into account this speculative element. Especially for the mills and factories of any industry, the manufacturers must sell forward and in order to sell forward they must buy forward, and if they are not protected by any statute or by any association, they are likely to suffer. As regards the agriculturists and producers, I beg to submit that whenever prices are good, they are protected by this statute to sell forward and to have their contracts enforced. Otherwise, when the produce is harvested and marketed, for one reason or another, either by capital being scarce

[Sardar Khan Bahadur A. M. Dalal]

or by the incidence of the land tax hanging over their heads, they are not able to move the produce at current and spot prices and consequently they are obliged to part with their produce at a very great sacrifice. Therefore, from my experience I find that this bill is bound to benefit even the cultivators. The element of speculation—in taking it too far into corners—as very ably explained by Mr. Nelson, is the only defect in the trade of Bombay, but when this bill is passed into law, on account of the settlement of the contracts at short periods, this will have a tendency to minimise that evil, but I should like to be enlightened on this point by my honourable friend Mr. Purshotamdas who is an authority on the subject.

Mr. G. B. TRIVEDI (Thana District): Sir, everybody would be glad if we could stop speculation or curb it by means of legislation. But cotton is a commodity for export, and the country would be benefited immensely if anything happened to advance its price. It would be to the interest not only of the country but of the poor agriculturists. We have therefore to see whether by this control that is sought to be given to one particular association, the interests of the country at large (and of the agriculturists particularly) are safeguarded. In this we have the analogy of America, which is also a cotton-growing country and which is also similarly situated as regards export. Therefore I have taken some pains to find out what is being done in America in a similar situation. I understand that there is a cotton exchange house in New York and that it looks after the interests of the cotton trade, but I do not find that it rests content with control merely. It does many other things. Particularly that exchange busies itself in finding out the causes whenever there is depression in the cotton trade. Whenever prices go down, that exchange board at once looks out for remedies to raise the price. I fail to find anything in the bill empowering the new exchange, our East India Cotton Association, to do anything of the kind, *i.e.*, to take any action to safeguard the interests of the country in times of depression. Am I to understand that it is not one of its duties ? If you take the analogy of New York, they busy themselves most in raising the price of cotton.

As regards speculation, I must say that I am not in favour of it, and I would welcome any measure that will control it. But, as the Honourable the Leader of the House stated, it is impossible to avoid speculation. In this trade even a genuine merchant, even the millowner, has to cover himself by his contract, and therefore even a genuine trader cannot avoid speculation. Therefore, the only thing that can be held objectionable is cornering. Now, we have to see whether cornering—people may not like the word "corner"—helps to raise prices, and thus indirectly tends to benefit the agriculturists and the country in general. I confess that I am not connected with the cotton trade and I do not know its intricacies, but my only point is this, that in this East India Cotton Association there is nobody who will guard the interests of the agriculturists. Now it was put to us by the Honourable the Leader of the House that the agriculturist does not suffer. I know that lately agriculturists even in far-off places do care to know the fluctuations of even New York and they are interested in the latest prices that are quoted from New York. I was in one of the villages recently which is a cotton growing village and I was surprised to find that agriculturists there were talking about and asking "what is the latest telegram about prices in New York?" That shows that agriculturists are interested in knowing present prices, in knowing the prices of what is called spot cotton. And then it is true that most of our agricul-

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turists are poor and therefore they do not get the advantage of the rise and fall of the market; perhaps they are so much indebted that it is the sowkars who take the advantage, but it is our endeavour and should be the endeavour of Government that we shall so improve the condition of the agriculturists by co-operative and other measures that the agriculturists will be as far as possible free from the indebtedness of the sowkars. Then there are certain agriculturists who are able to procure money and wait till the price of cotton rises, till there is speculation in Bombay, till there is a cornering. Would such agriculturists get the advantage of the rise in price by the cornering that is going on in Bombay or not ? That is the question. Take for instance, the case of a person who is cornering. If the man who corners says he is ready to buy any cotton that is offered to him at Rs. 490 and if the East India Cotton Association comes in and says "No, cornering will ruin a certain man, will ruin a certain set of persons and therefore we shall set down the price or lower the price from Rs. 490 to Rs. 450", will it affect the interest of the agriculturist or not ? That is the only question I am interested in and if the Honourable the Leader of the House or the honourable member Mr. Purshotamdas can assure us that the agriculturist who can wait till the cornering of cotton has raised the price so much, can get the benefit of such rise, I will vote with them.

Mr. PURSHOTAMDAS THAKURDAS: Does the honourable member expect a corner every year or every season ?

Mr. G. B. TRIVEDI: Suppose for instance an agriculturist has some cotton ready for sale. He sees that in Bombay the prices are rising, whether by natural of unnatural causes. It is to his interest not to look into the matter whether it is by natural or unnatural causes but if the prices are rising and if he has any cotton ready in hand, will he be benefited by the rise of the price of cotton to Rs. 490 or will he be benefited by the price going down to Rs. 450 ? That is the only question I am interested in and if the Honourable the Leader of the House or the honourable member Mr. Purshotamdas can conclusively tell us that the agriculturist will not suffer and that agriculturists of this kind of which I have given an instance will not suffer, then I shall vote with them, but if I am not satisfied, then I will vote against them in the interests of the agriculturists and in the interests of the country. It is because, as I said, that we are an exporting country in this matter. Cotton is a commodity of export and the higher the price we get, whether it be by natural or unnatural causes, the better for my country and why should I let legislation come in and save one or two men who have been mad enough to corner and speculate ?

Then the other point is that the Honourable the Leader of the House says that certain circumstances have arisen, that certain interests have represented to Government. I thought that the Honourable the Leader of the House would not deal in that vague manner, that he would have told us the exact nature of the circumstances that have arisen, of the interests that have represented to Government. Why make such indefinite statements and not take the House fully into confidence ? We may not know what is going on in the cotton trade, we may not be interested. What I am interested in is, as I put it, that the agriculturists of the country should be benefited as it is both to the interest of the cultivators and of the country alike that the cotton producers should get every advantage out of the rise in price of cotton due to

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an attempt on the part of any one to corner or to speculate, whether it be by natural or unnatural causes, whether it is by speculation or by genuine business, whether one man is saved or one man is doomed, and as an agriculturist country, as an Indian, I am interested in seeing that the agriculturist gets as high a price as he can for his product. As a business man, I do stand for curbing speculation, but as it is put to us, speculation is impossible to be curbed. I am glad in this matter I have on my side the authority of Mr. B. F. Madon, who is the representative of Messrs. Tata Sons and Co., who export cotton and he says that it is impossible to curb speculation by this legislation. If opinions like that differ, how is the Council to judge on this question and why should we take any such steps by legislation of this kind which will affect the interests of the cotton producers ? Whether you say it or not, at least so far as the arguments advanced are concerned, the matter is plain to me.

On these two points, I should like more enlightenment both for me and for the Council before I can vote in favour of this bill.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, I had no mind to interpose in this debate, but judging by and applying the tests which the Honourable the Leader of the House has put before us, I look at the measure from the legislative point of view. We were told that this Act does not apply to ready contracts of cotton. I have tried to scrutinise the measure to try and see whether there are any words in the Act which excepted them from the purview of the proposed East India Cotton Association, but so far as the bill is framed, no such phraseology is used and this is the point on which I seek information.

Another thing which I may bring to the notice of this House is that at the last time when this bill was before the House for repeal one of the acknowledged authorities who was a member of this House, pointed out certain difficulties and he (the then honourable member, Mr. Wadia) said that as a man of experience he would warn the House that any bill which was intended to be piloted through this House would have to stand a particular test which was in his words " that this bill should be made applicable only to one hedge contract ". Hedge contracts should be defined, and he made it a condition that, whatever name was given to the association, the bill should apply to a single hedge contract and the whole crop of cotton of different staples grown in India should be available for tender as against any such hedge contract. I am looking at it from a common-sense point of view. His view was this, as the phraseology now stands, I find in line 25 " fixing and declaring market rates for cotton of any and every description". The instance that he took was that supposing a corner was made in " Umra " cotton, that the rules of the association should be so framed in order to avoid any " corner " delivery of any cotton which was grown in India ; otherwise " Umra " cotton will be cornered and it will be impossible from his point of view to avoid speculation. I think, Sir, that is a point on which this House will require elucidation from experts. I thought that when the bill for repeal was before us that point was really made by the representative of the Millowners' Association whose complaint was that unless that was done, there was no hope of curbing any manipulation or speculation. I am told across that the millowners have no objection. Well, I shake my head and say this House will have to be convinced. It appears to me a really good point was made then, namely, all these corners are made with a view to make a big profit in a very short time. There are huge funds behind and the

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Honourable Mr. Wadia's complaint was "We do not know what the funds behind this association are". Then, in that case, if they have got sufficient funds of their own, the chances are there will be huge speculations and corners in a particular staple of cotton, against which unless the rules of the association allow you to tender any kind of cotton, you will have to pay the price fixed by that particular board for that particular staple. I say, Sir, therefore, that these two difficulties might be removed, so that we might give an intelligent vote; otherwise, we are all blind and we will have to go with the Honourable the Leader of the House relying implicitly on his views and perhaps those of Mr. Purshotamdas Thakurdas and Mr. Nelson.....

The Honourable the PRESIDENT: I see honourable members still forget to say "the honourable so and so". I must insist upon it. It is inexcusable in a veteran like the honourable member now in possession of the House.

Rao Bahadur G. K. CHITALE: I apologise, Sir, for the omission. I am only anxious that all interests should be served and there should be no complaint even in this House that, even on such things as were brought to our notice before, we did not feel quite strong and a convincing case was not made out simply because millowners now want to come in. Who knows by what method or for what purpose they want to come in?

Mr. PURSHOTAMDAS THAKURDAS: I am afraid, Sir, the nature of the bill that is before the House has been so badly misunderstood in some quarters that one honourable member of the House thought that it should be called a private bill, because it made recommendations for the recognition of a private association. Perhaps the coincidence that this year I happen to be the president of the East India Cotton Association is responsible for connecting me personally with most part of this bill and with the passing of the bill through the Council, as the Honourable Mr. Surve said, in great hurry last July. In addition to this, the flutter that has existed in Bombay during the whole of this month in connection with what is now famous as the September Oomra corner makes the consideration of this bill full of great interest to this House and, naturally, of increased responsibility also for them. I fully appreciate this peculiar and, if I may say so, unfortunate coincidence, but I think that will not make the Council shirk the responsibility that lies on their heads for legislating for what is said in the title of the bill "better regulation" and consequent control of cotton transactions in Bombay.

I may say at the outset, with reference to the misunderstanding that has arisen regarding what the Honourable the Leader of the House said in connection with ready cotton, that as far as I understood the Leader of the House, he said *the fixation of prices did not affect ready cotton*, whereas the Honourable Mr. Surve and the Honourable Rao Bahadur Chitale seem to have understood the Leader of the House to say that ready cotton would not be subject to rules and regulations of the association. What the Honourable the Leader of the House impressed and said clearly was that, inasmuch as the fixation of price of cotton had to be left to the directors of the East India Cotton Association, there might be conceded some uncertainty regarding this being done to the satisfaction of all. But whether that was correct or not, would have no effect, good or bad, for people trading in ready cotton, that is, for people not speculating, as some would call it, and not trading in forward cotton. I hope, Sir, I have put the point exactly as the Honourable the Leader of the House said

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and I hope I have made it clear to the Honourable Mr. Surve and the honourable member from Ahmednagar that there need be no misunderstanding as far as the Honourable the Leader of the House's remarks yesterday were concerned.

As several honourable members in speaking on the second reading of this bill have referred to my name for some information and for removal of certain doubts, etc., I would venture to encroach upon the time of this Council just for a few minutes, for I trust I would be able to show them the necessity of having an association like this at this juncture. Forward trading in any variety or any staple of cotton needs some sort of regulation and consequently—it will be clear to this House—some sort of control also. As long as trading in cotton in India was restricted to ready or what is called "spot" trading, there was no exchange or association with a board of directors necessary in order to regulate these transactions. The transactions regulated themselves, the buyers and the sellers agreed to certain terms, and the deal went through from a common sense point of view. But, as India is the second largest cotton-producing country in the whole world and as America is by far the most important market for cotton, the commercial community trading in cotton in India did not take long to follow the American method of disposing of their cotton before they actually had the cotton in their possession. This is called trading forward or trading for future months' delivery. In every country in the world where forward trading in cotton is desirable or practised, there is some sort of central body or association to control and regulate forward transactions. Go to New York, go to New Orleans, go to Liverpool, or, coming nearer home, go to Egypt, wherever there is an important cotton market and consequently important dealings of some size in forward transactions in cotton, an exchange or some sort of body is found necessary to regulate it. I hope nobody in this Council will have any doubt about this. It is, therefore, natural that Bombay being the largest cotton marketing centre in India should have a sort of exchange or association with a board of directors to regulate the transactions. The first one was started in 1875 and was the sole body in control of the regulations for these forward transactions. In 1892 a second exchange was started in competition with the first one, for reasons which are not pertinent to the points which I wish to put forward before the House for consideration. From 1892 to 1917 these two bodies either jointly or each independently and alternately controlled cotton transactions in Bombay. There being two bodies—there was not one single body—which controlled forward cotton transactions, it was left to common sense and ordinary law to regulate dealings in ready cotton. In 1917 happened the now notorious Broach corner. Several telegrams, due to exasperation on both sides concerned, were sent to the Government of India, and the Government of India sent down a deputation to Bombay who went into the question and reported that one central body was necessary to control forward cotton transactions in Bombay, and that it should be started. The Indian Cotton Committee presided over by Mr. McKenna was then in session or had just then submitted their report. So, the Government of Bombay started what was known as the Cotton Contracts Board. That body controlled the cotton trade in Bombay from 1919 to 1922 May. The Indian Cotton Committee unanimously recommended for Bombay one single association, including all the various interests to control the cotton trade of Bombay. The Government of India, by a letter which is now well known in the trade as Mr. Innes's letter, approved of that, and asked the temporary body, known as the Cotton Contracts Board to get into touch

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with the whole trade, that is the various sub-sections of the trade, and to devise some one association which would be acceptable to all interests.

Rao Saheb D. P. DESAI: I should like to know whether there was any cotton merchant of Bombay on the Cotton Committee.

Mr. PURSHOTAMDAS THAKURDAS: Mr. N. N. Wadia was a member.

Rao Saheb D. P. DESAI: He was a millowner. I wanted to know whether there was any Bombay cotton merchant on the committee.

Mr. PURSHOTAMDAS THAKURDAS: I have given the honourable member the name.

Rao Saheb D. P. DESAI: He was a millowner.

Mr. PURSHOTAMDAS THAKURDAS: But the Government of India thought that he could adequately represent Bombay. I do not think there is any point in the question of my honourable friend. The recommendation of the Indian Cotton Committee, as far as the starting of a single association in Bombay to regulate and to control the cotton trade is concerned, is based on the unanimous evidence of everybody concerned before the Indian Cotton Committee, from Bombay, including the Bombay Cotton Exchange and the Bombay Cotton Trades Association and every other commercial body that gave evidence before the Indian Cotton Committee. Thus Mr. Wadia may well be said to have correctly reflected the opinion of the Indian cotton merchants in Bombay in that recommendation. Then, Sir, in accordance with the letter of Mr. Innes, who was then Secretary to the Government of India in the Commerce and Industry Department, the Chairman of the Cotton Contracts Board, the body that was to bridge the gulf, got into touch with all the various interests concerned, and the result is the East India Cotton Association.

My honourable friend from Ahmednagar made reference to the speech of Mr. C. N. Wadia made in this very hall almost a year back, on this question, when the Cotton Bill was to be repealed. At that time, last September, certain sections of the trade had got impatient, and even before September they approached the Government of Bombay saying "We do not want this control any longer by Government of the cotton trade." The Government of Bombay having secured the information they wanted said that they would apply for the withdrawal of the bill to the Council. Mr. C. N. Wadia may be said to have been representing the millowners' interests in this Council. The millowners had then a serious difference of opinion with the cotton trade. The millowners wanted what is called one-hedge contract. The cotton trade were then strongly opposed to it, and if I know their mind correctly to-day, they still continue to be strongly opposed to it. I was hoping that if this Council passed this bill, as the by-laws and rules of the association would be subject to the sanction of Government, this question of one-hedge contract or five-hedge contract would go before Government as an impartial authority over the two widely differing views existing on this question, and I therefore had expected that I would be able to spare the Council the infliction of what I will now have to say regarding what my honourable friend Mr. Nelson described as a highly technical subject. I will put the whole thing in a nut-shell.

The millowners think that by having a single one-hedge contract, they would stop all ideas of or efforts at corners. They are not wrong. The trade on the other hand say that by having only one single-hedge contract for Bombay, there will be such a depreciation in the return of prices to the caltivator as to

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preclude the idea of their agreeing to it under any circumstances. I hope, when I say that that is the difference of opinion between the two, the honourable member for Ahmednagar will agree that the trade should not adopt it without further consideration. I will further explain it in this way. The values of Indian cotton differ very much. If fully good Bengal is worth Rs. 250—300 a Khandi, fine Navsari would be at least Rs. 350—400 a Khandi, or higher up, and Cambodia may be higher still. Now all varieties of cotton grown in India would be tenderable against one single contract. The man who buys that contract does not know whether it would do for him to be prepared for payment of, say, Rs. 12,500 in order to accept delivery of 100 bales, or whether he will require Rs. 20,000. If he has to take delivery of say Bengal cotton at Rs. 250, it might be all right. But he may be tendered, by a person trading in fine Navsaris at Rs. 350—400 or by a person trading in Cambodias at a higher rate still, in which case the difference would be added to the price, and he would have to be prepared with Rs. 20,000 or more. From what I have stated, I hope the Council will be able to appreciate the issues. On these and similar questions the trade and the millowners could not agree last September. The trade, however, were, as I said, a bit impatient, and they approached Government for the withdrawal of the then existing control. Government of course said that they had no objection to the trade getting out of it. The result has been very fully explained to the House by the Honourable the Leader of the House. The Council themselves are a party to the new bill which was introduced in last March, approving of the withdrawal of the previous bill, which was saved only by the chance that His Excellency the Governor-General had not given his consent to it, and we are at this juncture considering this bill, application for which was made to Government unanimously by all the interests affected. The honourable member for Ahmednagar asked, what are the means by which the trade and the millowners have been unanimous? I will give him that reply explicitly.

*After recess.*

The Honourable the PRESIDENT: Order, order.

Mr. PURSHOTAMDAS THAKURDAS: Sir, last time when the bill for the repeal of Act I of 1919 was before this Council Mr. C. N. Wadia speaking on behalf of the Bombay Millowners' Association strongly objected to the East India Cotton Association as it was then constituted taking the place of the Cotton Contracts Board, the main bone of contention between that association and the Bombay Millowners' Association being on the score of a single hedge contract or five or six hedge contracts as were suggested by the then East India Cotton Association. Subsequently the trade and the Millowners' Association, thanks to the good offices of Mr. Wiles who was acting as chairman of the Cotton Contracts Board, came to an understanding; and I think it necessary in reply to the invitation thrown out by my honourable friend the member for Ahmednagar district, that I should tell the Council what that compromise was. It was pointed out to the Millowners' Association that several members in the cotton trade had honest and genuine apprehensions as to the effect of the adoption of a single hedge contract for the Bombay cotton market as far as the price available to the cotton cultivators in the districts was concerned. But it was also conceded that if this apprehension of certain members of the trade was rather far-fetched or was incorrect the trade would perceive that themselves in course of time and that in course of time the trade might come in line or

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fall in line with the Millowners' Association. But that would be on a future day and also a question of time, and also a question of the experience of members of the trade who do not agree with the millowners at present. The millowners having perceived the strength of this argument demanded a guarantee that the members of the East India Cotton Association will not make any such drastic changes in the rules and regulations of the East India Cotton Association as will make hedge contracts narrower. They said that at least they could not be a party to any hedge contracts which may be narrower than what was agreed upon. I wish to tell the Council that all these negotiations were carried on with full knowledge that the legislature may take time to or may not recognize any cotton association and we were prepared to arrange our needs in such a manner that, if the worst came to the worst, the association would stand and the cotton trade in Bombay would be carried on as best as possible and as the trade themselves could manage. So an undertaking to this end was given, that the number of hedge contracts should be restricted to five, and that they would not be increased from five, that they would include certain districts in each contract and that no narrowing would be done. For instance in the contract for Broach growths of cotton known as Punjab-Americans, Surat, Kathiawar and Cutch would be included. Thus the whole idea was that the contracts should be changed in the direction of a broader basis and not of a narrower basis, and the millowners agreed to join. There was also some difference of opinion regarding the principle on which the chairman was to be elected and also as to who had the right of electing the directors of the board. However, I do not think it interests this Council or is pertinent to the remarks made by the honourable members, and I therefore do not propose to weary the Council on that point. But I think I might mention that I have made an attempt to place before the Council the important part of the compromise. So that was the compromise on which the millowners, and the trade agreed to contract, and after that was reduced to writing as it was agreed on both sides, the millowners became members of the East India Cotton Association, and practically the Millowners' Association and the East India Cotton Association became unanimous and came under one roof. We started to work from the 1st of June, and with the consent of the millowners, whose representatives are on the board of this East India Cotton Association in the same proportion as those from any other sections of the trade, it was unanimously resolved by the board of that association to approach Government with a request that Government might be pleased to give some sort of recognition to the East India Cotton Association. It therefore is not as if the Government of Bombay choose to give recognition to this Association on their own initiative simply, but there is the unanimous recommendation of the Indian Cotton Committee followed by a letter from the Government of India in the Commerce and Industry Department chalking out the lines on which the Association would have to address the Government of India for their recognition by the legislature, and then followed in greater detail by the Government of Bombay. This bill therefore comes before this House not as a private bill but as a bill with the full approval of the Indian Cotton Committee, the Government of India and the whole of the cotton trade of Bombay. I wish, Sir, to submit to this House this consideration. Supposing this House chose to reject this bill and did not pass it, the cotton trade of India or Bombay and the cotton trade all over India will go on. As long as the trade can export cotton to

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Japan and other places, the activities of the trade will go on and the Association also will go on doing its business in cotton. Is it not more desirable to elevate a trade in which the merchants, the millowners, the general public, and, if I need say it, all the growers of cotton, are so much interested? For I understand my honourable friend Mr. Trivedi has appealed to the House very strongly in the interests of agriculturists. Other honourable members have also spoken very strongly as to the ill-effects of any cornering or other artificial manipulation. Is it desirable to leave this important staple outside the control of the Government, and therefore of the legislature, or is it better to bring it under the control of Government and hence under the control of this House, as I will presently show? The rules and by-laws are subject to the sanction of the Government. If it is represented to Government by anybody, either outside the trade or within the trade, that a certain rule or regulation is detrimental to the interests of agriculture, or to the interests of the importance of Bombay as a cotton market, does any honourable member think that Government will not consider it? In the best interests of everybody, the interests of trade, the interests of agriculture and the interests of the investing public, and for financial considerations, it is desirable, also from the legislators' point of view, that dealings in forward cotton should be subject to the control of Government so far as by-laws and regulations are concerned. With all respect to the honourable members who expressed great misgivings, I fail to understand how on the second reading of the bill, it can be said 'Leave the bill alone; we do not want to interfere with the trade'. The trade has been unanimous and has approached Government. If the trade agrees to give some hold either to Government or to this Council, then the Council must welcome it. As a mere merchant, forgetting myself for the moment that I am a member of the Legislative Council, I would ask, looking to the selfish interests of only the people dealing in cotton, "Why go to Government and give explanations? From 1875 up to 1922 the cotton trade was carried on without Government control." Now, I am afraid, the cotton trade is putting itself into a position where it has to offer explanations, and give this House particulars in reply to questions as to certain aspects which may or may not be known to the public. That is a rather narrow view I would take merely as a cotton merchant.

I now come to the remark made by the honourable member, Mr. Trivedi, that in every one of the foreign markets, there is only one single association controlling it. It is not clear whether such associations have the approval of the Government or not; and I am not conversant with the actual conditions there. But I believe that the sense of discipline is greater there than in India; perhaps the trading community themselves have so organised themselves, as to conduct their business without the need of any legislation. We tried it in Bombay from 1875 to 1892; then there was difference of opinion, and there sprang up another association. These two associations tried to control the trade for 20 years, and it was agreed unanimously by all in the trade, by the Government of India and the Cotton Committee that in order to better the condition of cotton trade there should be one single association and no more should be allowed. How are you going to prevent another association from being started except by legislation? In the East India Cotton Association you have got a body on which all interests are represented more or less evenly. Here you have got a body where no one party will have its whole say except under special circumstances or an accident. I submit that you cannot devise anything

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better than what has been done in this association. I further submit that you cannot prevent any other association from being started unless a bill like the one before the House is passed. I wish briefly to refer to the two minutes of dissent which.....

The Honourable the PRESIDENT: These two minutes attack the whole bill, and I have already ruled them out though somehow or other they got in. I do not think it necessary that you should refer to them.

Mr. PURSHOTAMDAS THAKURDAS: My honourable friend from Kaira remarked that the control of cotton was undertaken in 1919 during the period of war. I am afraid my honourable friend from Kaira has picked out a few portions from one speech or another and tacked them on to the minute of dissent, irrespective of the conditions in connection with which some remarks were made by the Member in charge, Sir George Carmichael. You rule, Sir, that I need not refer to it, and I do not propose to follow it up any further. But I wish to point out one thing that although that legislation was conceived when the war was on, and although that legislation was enforced first under the Defence of India Act, and secondly under the war exigencies, the Honourable Member in charge of the bill moving it said distinctly that these were temporary measures before a permanent one could be devised and put before the legislature. I do wish that the honourable member from Kaira had also said that, when he said other things, and emphasised that the Cotton Contract Act was a war measure. His omission to say that, I am afraid, may give honourable members of this Council an imperfect and incomplete idea of the circumstances in which that was said.

(At this stage Rao Saheb D. P. DESAI rose to interrupt.)

The Honourable the PRESIDENT: No honourable member is entitled to interrupt a speech unless the member in possession of the House gives way.

Mr. PURSHOTAMDAS THAKURDAS: I have not given way, Sir. Just one more thing about the dissenting minute of the honourable member from Kaira. He says that the association becomes a trust or a pool. Surely you can have a trust or a pool when there is capital or if you give trading powers to that association. No trading powers are given to that association and no capital is possessed by the association. Not only that, but the articles of memorandum of the association say that their business is only to regulate cotton transactions. Surely, before the honourable member said something which would be prejudicial to the whole bill and the East India Cotton Association, he should have ascertained whether the association had capital or trading powers. They have neither. The main grounds on which both the honourable members have written dissenting minutes show one thing, that the fluctuations of cotton rates in Bombay do affect cotton rates all over India. The speeches of the honourable members who have spoken before also make it clear that the fluctuations of rates in Bombay would be reflected in the return to the cultivators for the cotton that they would sell. I submit, Sir, to this House that that very reason should make them all the more ready to devise something by which cotton transactions in Bombay could be carried on in a systematic manner. If the fluctuations of prices in the Bombay cotton market are reflected in the returns to the cultivators up-country, is it not a very good reason why those transactions should be properly controlled, if you like to call it so ? Is not the control that is being given to Government by means of powers

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to approve or to reject the bye-laws of the East India Cotton Association—a very strong power given to the Government by the cotton trade—beneficial to the interests of the cultivators ? I therefore submit that the same reasons that have been used for the rejection of this bill go very strongly to urge this Council to adopt this bill as early as possible.

The honourable member from Kaira has stated in the last paragraph of his minute that he does not think that this bill should be passed in this form. He has not put up any constructive form : he has not said that this should be taken off and something else should be substituted. Now, I was very carefully scrutinising his speech to see if there was anything constructive he had to put forward, and the only constructive suggestion that I have heard is that instead of having all interests represented in the board only brokers should be represented as they are the most impartial and colourless people. My honourable friend Mr. Nelson has dealt with that. I submit that Rao Saheb Desai's suggestion is a thing which will not appeal not only to any section of the trade, but to any member in this House either.

My honourable friend Rao Bahadur Chitale referred to clause 3 (*e*) :

"fixing and declaring market rates for cotton of any and every description which rates shall be binding for all purposes upon every one dealing in such cotton."

He said that he had some apprehensions about this clause. Now, Sir, fixing and declaring market rates for cotton of every variety is a thing which has got to be done from day to day when contracts are closed, in order that those who are dealing in it may know exactly how to close their contracts, but that necessity does not arise until one of the two sides, namely, the seller or buyer, has failed to carry out his part of the contract fully. If I have sold forward 5,000 bales and *A* has bought the 5,000 bales, both being members of the association, and I tender 100 bales, *A* may take them or he may refuse to take them. If the contract is not hedged, and the transaction is ordinary, the fixing and declaring of market rates does not concern him. The fixing and declaring comes in when I tender the cotton and he rejects it on account of low quality, in which case of rejection the contract has to be squared up and the contract can be squared up only at the rates fixed by a board. So that this clause 3 (*e*) does not affect people dealing in cotton in the ordinary course, but where power is given to chose or to reject, and the rejection takes place, the contract has to be closed and some sort of body is necessary to regulate the rate at which that contract can be closed, and that body can only be a board of people representing all sections of the trade.

I do not think, Sir, that I have got anything more in justification for my support of the second reading of this bill. I will only say one thing before I finish, and that is that I very much regret the absence of my honourable friend Mr. Petit who represented the Bombay Millowners' Association in this Council. The Honourable the Leader of the House told the House yesterday in his opening remarks that in the enforced absence of Mr. Petit Government offered nomination to the Chairman of the Millowners' Association to come to the Council and to be present in the Council to put the views of the Millowners' Association before this House. The Chairman of the Millowners' Association being very busy and not finding it suitable to attend the Council meeting, I understood the Honourable Leader of the House to say that Government offered the same privilege to the Vice-Chairman of the association, but that neither of them were prepared to come to the Council and say whatever they might have had to say. I regret that the Chairman of the Bombay Millowners' Association, who has been

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of such great assistance to me as President of this Cotton Association and to the whole board, should not have found it convenient to come before the House when an important measure like this was being discussed by this House. I hope the House will realise that Government have given every possible opportunity to every person concerned in the cotton trade to put his views before the House. Though personally, from the narrow point of view of a cotton merchant, I am sorry that somebody else is going to have a say as to how the trade should be carried on, I have no hesitation in saying that the Council by passing this Bill will be doing one of those actions which for years hereafter will be remembered as a step in the right direction, and I go further and say that it is not unlikely that the Governments of other Presidencies, where similar staples are being dealt with speculatively and for forward settlements, may before long look up to this Act as a model. With these words, I support the second reading of the Bill.

Rao Bahadur R. R. KALE (Satara District): Mr. President, coming as I do from the mofussil, I am inclined to say a few words because although the bill as it has emerged from the select committee says that the Act shall apply to transactions in Bombay, still the word "contract" as defined, saying as it does, that transactions in cotton can be carried out either in whole or in part in Bombay, if any payment is to be made or any act is to be done in Bombay, that means that the contract will be affected by this bill. I need not say that I do not consider that such legislation is not necessary. Debates in the last Council on the bill that was before the House then, show that there was a necessity for a measure of this kind and it was pointed out in fact that because there existed no such body in this country as the Cotton Exchange of Liverpool or America, therefore Government had to undertake control and now I must say that it is a matter of congratulation that an association is being formed or is formed to do that work. But my difficulty is that the constitution of the administrative machinery of that association is not at all before us. It is sanctioned in clause 4 by Government. We were told that it was going to be a sort of local self-government body. Quite true, but we do not know, we are not in possession of any facts which do go to show, the constitution of the administrative machinery. Secondly, the bill consists mostly of, I should say, a section which gives power to the board to make rules and regulations. There is nothing substantial so to speak laid down in the Act itself. Ordinarily merely leaving everything to rules is a sort of unsatisfactory state of things but in this case it goes further because the rules are to be made not by Government but they are to be made by that body and not even by that body but by the board and even the board means the board of directors of the association acting through a quorum of some members and that quorum may be made of two or three people even. I know that the sanction of Government is to be obtained for the approval but.....

Mr. PURSHOTAMDAS THAKURDAS: May I inform the honourable member, Rao Bahadur Kale, that the articles of association make it necessary that those rules should be submitted to 19 members representing the representative committee of the association, all the six panels to be represented and the 19 people thus constituted must pass those rules before they are submitted to Government?

Rao Bahadur R. R. KALE: Exactly, the explanation offered by Mr. Purshotamdas Thakurdas itself shows the difficulty under which we are

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labouring; not that I am opposed to the measure as such, but we are absolutely in the dark as to what is the quorum. Of course I am obliged to my friend because he now explains but still as I say nothing is placed before us.....

The Honourable the PRESIDENT: It was a very good argument for the first reading but the bill has passed that.

Rao Bahadur R. R. KALE: I am opposing the second reading on the ground that the bill as it has emerged from the select committee.....

The Honourable the PRESIDENT: Was that argument made at the first reading?

Rao Bahadur R. R. KALE: I do not know....

The Honourable the PRESIDENT: I do not want to come in your way but I think we must not allow looseness of debate.

Rao Bahadur R. R. KALE: My difficulty is, as I said, that there are not sufficient materials before us to enable us to know what is this constitution going to be and what these rules will be and as the honourable mover of the bill said that there was opposition.....

The Honourable the PRESIDENT: Why did you not raise all these points at the first reading and say that this bill should not pass the first reading unless all and full information is laid before the House as regards the constitution of this association which is the priniciple of the bill affirmed by the first reading?

Rao Bahadur R. R. KALE: The principle of the bill that there should be some body to control is not disputed and I am not going to dispute it.

The Honourable the PRESIDENT: The principle of this bill was that the control of cotton transactions shall be entrusted to the particular body named in it. Now you cannot change that body after it has been affirmed at the first reading. No amendment to substitute another body would be now in order; that is against the principle.

Rao Bahadur R. R. KALE: With due deference, I am not going to say that there should be another body. My difficulty is that the rules of the constitution of the administrative body.....

The Honourable the PRESIDENT: I understand you thoroughly, Rao Bahadur. You want information about this association. The time for asking for that information was the first reading. Now the first reading was allowed to be passed and that body was allowed to be kept intact. Therefore it is too late to say that information ought to be forthcoming. I do not want to come in your way, but do not please go into details.

Rao Bahadur R. R. KALE: I must say I am not satisfied as my difficulties still present themselves to me and those difficulties are these. As I have said, the honourable member, Mr. Purshotamdas Thakurdas, ought to have furnished members of this House with copies of articles of association or whatever they may be called and that would have been certainly a very proper thing to do, and the members of this Council would have been in a position to look through the constitution, but in the absence of anything of that kind being supplied to members and in the absence of any information, it seems to me that it is impossible for us to give our assent to the second reading of the bill. I should not be taken or understood to say that I am opposed to any legislation of this kind or to the constitution of such body, but the gist of

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the discussion in the last bill was that the bodies in India have not yet sufficiently advanced to that stage to which the cotton exchanges in America or Liverpool have done. That was the burthen of the arguments that were advanced but until and unless they are satisfied that the body which is newly formed has attained that level, I think our misgivings will continue and therefore until and unless the Council is satisfied that the new East India Cotton Association or whatever its name may be is formed in that manner and any body stands on the same footing as the several cotton exchanges in other parts of the world, I believe we have a right to say that sufficient material has not been made available to us.

Mr. IBRAHIM S. HAJI (Bombay City): Mr. President, it has been urged that representations have been made to Government to undertake legislation in order to create a cotton exchange along the lines of the cotton exchanges in Liverpool and America. There has not, so far as I can see, been a single public meeting either in the districts or in the city of Bombay nor has there been a single meeting of the producers of cotton in the districts where cotton is produced calling for such legislation. The first measure of this kind came as the result of the war which was put forward as its justification. Now those conditions are non-existent and yet this House has been asked to pass this bill not as a war measure but as a substantial and as a permanent Act of the legislature. Now, for such a legislation we expected that it would emerge from the select committee for second reading in such a manner as would command the confidence not only of this House but of the public at its back. Those who have ventured to support this bill have not quoted a single instance in their favour to show that the public opinion demands it, but we have heard from stalwart traders in cotton and also from the president of the board of the East India Cotton Association a vindication of the persistent demand that such legislation should come into existence. Why is it wanted? Because the transactions are to be controlled; that is, the board must have powers to fix prices, and prices of what?—not only of the future or the forward sales or purchases, but of any sales including the ready sales. As you would see, Sir, in clause 3, sub-clause (*e*), it is specially laid down that the whole board should provide for certain rules relating to this trade. The sub-clause reads:

> "fixing and declaring market rates for cotton of any and every description, which rates shall be binding for all purposes upon every one dealing in such cotton."

It is ridiculous to say, Sir, after the way in which this bill has emerged from the select committee, that it does not affect the agriculturists. I submit, Sir, that the select committee has not considered this bill in all its aspects as was expected from the select committee by this House, and the dissenting minutes which have been appended to the select committee's report at once indicate that the select committee as a majority did not consider that this bill would affect the agriculturist classes. And the very retention of this clause, which gives powers to the board to control not only the forward sales and the fixing of prices of the forward sales, but also of any sales, shows that the select committee has not considered this point. Therefore, it becomes incumbent upon this Council to consider seriously whether they should accept the second reading of the bill or not, and in submitting my view, Sir, I ask this Council not to pass the second reading of this piece of legislation.

The second question, Sir, I want to submit to this Council is this, that when a single board, the East India Cotton Association in this instance, is given the power to fix prices of any sort of cotton at any time and at any rate, it is a very

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extraordinary power that this Council is going to give to a board of traders. In other words, by passing the second reading of the bill, we shall create not a trust, as mentioned by my honourable friend from Kaira, but a group of monopolists and their vested interests will become so strong that I do not know where the cultivator of cotton will be when that exchange comes into existence. Sir, if I carry on my remarks in showing to this House how this bill would affect the consumer, I am afraid, Sir, you would rule me out of order that I am speaking as if on the first reading. But it seems, from the way the bill has emerged from the select commtitee, that this Council has been awakened to what has passed between the time that this bill was submitted to the select committee and the time when the select committee made its report. In these words I ask this House not to pass this legislation to give powers into the hands of one board of trade, namely, the East India Cotton Association, particularly when there is no public opinion at its back and there is no demand from the producers of the commodity. If this Council passes it, I am afraid the Government will commit itself to teaching certain lessons to traders in other commodities or to the professions how to behave and how to control and fix prices. This is not the function of Government to interfere. If cotton traders do not know their business, well, it is not the business of this Government to say to them, "You better trade in this way", I would, therefore, ask the House to reject the second reading of the bill.

Mr. S. T. KAMBLI (Dharwar District): Sir, by this bill, it is sought to give absolute, dictatorial powers to the East India Cotton Association, to fix and regulate the price of cotton. It has been put forward that the interests of the Bombay cotton trade have been consulted, but nobody has ever suggested that the growers of cotton have been consulted in this matter. Their interests are, strange to say, considered fit to be safeguarded by the traders and manufacturers of cotton. When I consider this bill, Sir, another point suggests itself to me and I think it is my duty to place it before this House. Some time back, it was sought to introduce legislation in this Council in order to prevent the transport of cotton from one place to another; and now we see a similar bill on the anvil of the Central Legislature. Now here we are and this position has been reached; namely, this Council wants to give power to fix the price of cotton to a certain set of interested traders in Bombay; by another piece of legislation in the Central Legislature, it is sought to prevent the free transport of cotton from one place to another, except under a license. The result would be this, that instead of the price of cotton being fixed by the natural law of supply and demand, instead of the prices being regulated by the world prices, instead of the free and unfettered movement of cotton to places and markets where it can obtain the best price, if the two pieces of legislation introduced are passed, certainly a monopolist class will be created in Bombay whose interests it would be to put down the price of cotton. And, Sir, if you take into consideration the fact that though the price of cotton has gone down considerably recently, still the manufacturers of cloth and yarn have not reduced the price of cloth and yarn by that proportion, certainly much misapprehension will be caused, and I think it will be caused on right and reasonable grounds. Therefore, Sir, I oppose the second reading of this bill.

Major General W. E. JENNINGS: I move that the question be put.

The Honourable the PRESIDENT: May I accept the closure?

Mr. M. A. HAVELIVALA: I would like to say a few words, Sir.

Honourable Members: Vote, vote.

The Honourable the PRESIDENT: Very well, I accept the closure.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, I thought the lucid explanation which my honourable friend Mr. Purshotamdas Thakurdas gave to the House would have satisfied them in accepting this measure...

An Honourable Member: It has gone the other way.

The Honourable Sir IBRAHIM RAHIMTOOLA: I was hoping that the duty of explaining to the House further, which devolves upon me, might have been spared in view of that explanation. But I find that there is still considerable misapprehension in regard to the principles of the bill. I should like to ask honourable members to bear in mind one very important fact, and that is that the cotton trade, so far as forward contracts are concerned, requires to be regulated by an association. For the past fifty years there have been one or more associations discharging the duties of regulating the trade. It has been found that the trade cannot go on unless there is some association in whom the powers of regulating it are vested. It is necessary that an association must exist. The question, therefore, is whether this Council, desires that, in the interests of the community, the rules and regulations of such an institution should be subject to the sanction of Government, or whether those rules and regulations should be made on the exclusive authority of the association itself. That is the first issue. The second issue for consideration is whether in the interests of the community which includes the agriculturists, it is desirable to have only one association, recognised by Government, whose rules and regulations are controlled by Government, or any number of associations, leaving the traders to contract under the rules of any of them.

Having pointed out that it is necessary that an association should exist in the interests of the trade, I would ask honourable members to consider whether it is in the interests of the agriculturists and the cotton trade to have one association only which can impartially and judiciously deal with all problems, or two or more associations. It must be remembered that there are forward contracts for the sale and purchase of cotton. If there were no contracts for the sale and purchase of cotton for forward delivery, there would be no occasion for any association. Now, I ask whether it is or it is not in the interests of the producers of cotton and the traders to have forward contracts. If the opinion of honourable members is that there should be no forward contracts in cotton at all, then I could quite understand their opposition to the second reading of the bill. But forward contracts are essentially necessary, in the interests of the producers, in the interests of industries and in the interests of the trade. Honourable members will remember what has already been pointed out, that cotton is a world commodity, that India has not got a monopoly of that article, and that India is not the largest producer of cotton. The prices of cotton are governed by world prices, and telegrams are exchanged every day, if not every hour, between the principal centres of production and consumption of cotton as regards the prevailing rates. Forward contracts are entered into in all these principal centres, and if India decides not to have forward contracts it would be doing the greatest injury to the agriculturists, in whose interests some opposition has been offered to the bill. If it is necessary in the interests of the general community, especially the agriculturists and the cotton industry, to have forward contracts, then there must be some authority to regulate such transactions. If you do not have an association, forward

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contracts cannot take place without involving costly litigation. If the bill is rejected the trade will have to organise one or more associations, with the result that the community will suffer. That is the issue before the Council. The trade has come to Government and asked their help in order that the trade may be regulated and controlled on lines approved by an independent authority like Government. If the trade is told that it should shift for itself, it would to my mind do considerable harm to the community.

I was particularly amused at the speeches which were made by my honourable friend Rao Saheb Dadubhai Desai and the honourable member for Thana. Their position seems to be that cornering is to the advantage of the cultivator, because cornering raises prices and therefore the agriculturists get higher prices. The honourable member for Thana said that there are agriculturists who will wait till a corner has raised the prices; as if cornering was an every day affair. But what I was particularly amused at is that these honourable members seem to be under the impression that cornering was a philanthropic institution which raised prices for the benefit of the agriculturists, and that a hard-hearted Government were coming to the rescue of the cotton trade by recognising an association, in order to deprive the agriculturists of higher prices due to an every day affair called cornering! Sir, the people who resort to cornering desire to create a monopoly by getting the entire supply of the crop in order to raise prices to the detriment of the community, and, after all, the rise of prices in cotton by these unnatural means would raise the prices of piecegoods which every consumer in India has got to pay for. They try cornering in order to put crores of rupees into their own pockets. Whether they succeed or not is a different question. I made it perfectly clear in my opening speech that it is not possible to control entirely a reasonable amount of speculation, and there is considerable misconception as to what speculation means. I explained to honourable members that a millowner does not want to speculate. Supposing he sells 2,000 bales of piecegoods or yarn for delivery six months hence, he has got to cover his cotton in order to make a safe transaction. He does not get the class of cotton from which he proposes to manufacture. Therefore he buys forward Broach or one of the other standard qualities in India, or in America, Liverpool or New York as a hedge against his sale. When the time of delivery comes, he has got to sell his purchase in order to buy ready cotton of the quality he wants, for manufacturing purposes against his original sale of yarn or piecegoods. Now if you stop forward contracts the result will be that the important cotton spinning and weaving industry in India will be adversely affected. The interests of the agriculturists will also suffer because if there are no forward contracts the tendency would be for prices to depreciate. In this connection I should like to invite the special attention of honourable members to what my honourable friend Mr. Purshotamdas Thakurdas pointed out. He said that there was one section of the trade which desired that there should be only one hedge contract. The effect of this would be to depreciate the prices of cotton and the trade has wisely resisted it. No one desires that anything should be done to depreciate prices. At the same time no one can desire that prices should be forced up by an effort to capture the entire production of a particular quality. What every one should desire is that such an important trade as the cotton trade should be conducted on the principles of fair trade and the object of this association in coming to Government and getting Government control over their rules and regulations is to ensure that such should be the case.

[Sir Ibrahim Rahimtoola]

There is only one point to which I think I must refer and that is to remove an impression from the minds of some honourable members that the organization and recognition of the East India Cotton Association would result in lowering prices. I do not think such can be the case. The intention must be that the trade should be carried on on the principles of fair trade. The prices would in the ordinary course be regulated by world conditions. The rise and fall in prices will depend upon supply and demand not in India alone but also in other parts of the world. The total world production of cotton, the total demand for cotton throughout the world will operate in regulating prices. That is as it should be in the best interests of every interest concerned, and that is why Government want to support this bill.

There is only one word, Sir, which I will say in conclusion. I hope I have satisfied honourable members that what they are doing is a thing which will endure and which will reflect credit upon them and that it will in no way be to the detriment of any legitimate interest. The honourable member for Satara, Rao Bahadur Kale, pointed out "We do not know anything about the constitution." I have told the House in my opening speech that as soon as Government receives the rules and regulations framed by the association which will contain all details, they will send them to the Bombay Chamber of Commerce, the Indian Merchants' Chamber and Bureau, the Millowners' Association and other important trade associations. On a suggestion received, they will also be sent to the Karachi Chamber. The whole trade will have an opportunity of considering those rules and regulations, and, if necessary, I have promised to invite a conference of the representatives of those interested in the trade in order that Government may be in a position to judge exactly what is in the best interests of the community. Having done that, I may give a further assurance required by my honourable friend Mr. Nelson that the rules will only come into operation on a day which will be suitable to the trade. Government do not desire to favour any specific interest in the trade. They stand to help the trade as a whole and it is on that basis alone that they have brought forward this legislation and it is on that basis alone that Government ask honourable members to pass the second reading of this bill.

Question put. House divided. Ayes 36. Noes 33.

Bill read a second time. Motion carried.

*Division No. 5.*

**Ayes.**

ADDYMAN, Mr. J.
BATLIWALA, Dr. S. S.
CHITALE, Rao Bahadur G. K.
CLAYTON, Mr. F.
CREAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DWARKADAS, Mr. KANJI
FERNANDES, Major C.
GHULAM HUSSAIN, The Honourable Khan Bahadur SHAIKH
GRIFFITH, Mr. F. C.
HAVELIVALA, Mr. M. A.
HAYWARD, The Honourable Mr. M. H. W.
HOOD, Mr. A. J. F.
JENNINGS, Major-General W. E.
KER, Mr. J. C.
LAHORI, Khan Bahadur HAJI AMIRALI
LAWRENCE, The Honourable Mr. H. S.
MEAD, Mr. P. J.
MODI, Sardar Davar T. K.
MOHIDINKHAN, Khan Saheb HAJI HAZRATH KHAN
MONIE, Mr. P. W.
MOUNTFORD, Mr. L. J.
NELSON, Mr. F.
PAINTER, Mr. H. L.

PARANJPYE, The Honourable Dr. R. P.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Honourable Sir IBRAHIM
ROTHFELD, Mr. O.
SETALVAD, The Honourable Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY
THAKOR OF AMOD, Sardar NAHARSINGHJI
THAKURDAS, Mr. PURSHOTAMDAS
THOMAS, Mr. G. A.

*Tellers for the Ayes:* Mr. F. NELSON and Sardar Khan Bahadur A. M. DALAL.

**Noes.**

ADHAV, Mr. P. N.
BHATE, Mr. G. C.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHIKODI, Mr. P. R.
COOPER, Khan Bahadur D. B.
DESAI, Rao Saheb DADUBHAI P.
GANDHI, Mr. C. M.
GHOLAP, Mr. D. D.
GODAD, Khan Saheb ABDULLA AVJAL
GULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HAJI KHAMISO GUL MAHOMED, Mr.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
ISRAN, Khan Saheb G. A.
JADHAV, Mr. B. V.
KAMBLI, Mr. S. T.
KASSIM, Mr. G. H.
LAGHARI, Khan Bahadur KHAIR BAKSH
LALBHAI AMBARAM, Mr.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SAYED NABI BAKSH SHAH
SURVE, Mr. A. N.
TRIVEDI, Mr. G. B.
VICHARE, Rao Bahadur D. A.

*Tellers for the Noes:* Mr. S. T. KAMBLI and Mr. A. N. SURVE.

*Bill read clause by clause.*

Clause 2 (Definition) ordered to stand part of the bill.

Clause 3 (Power of Board to make by-laws) ordered to stand part of the bill.

*Clause 4 (Legality and alteration of Articles of Association).*

The constitution and administrative machinery set out in the articles of association of the Association are declared to be lawful. The said Articles shall not, except with the sanction of the Governor in Council, be altered in respect of the number or constitution or Panels or the representation upon (*a*) Panels, (*b*) the Panels Representative Committees, (*c*) the Representative Committee of the Association or (*d*) the Board.

Rao Saheb D. P. DESAI: I have got an amendment.

The Honourable the PRESIDENT: Have you given notice of it?

Rao Saheb D. P. DESAI: I gave notice of it, but it was ruled as time-barred. I have to ask for special permission.

The Honourable the PRESIDENT: What is your amendment? If it is important and affecting vital interests, I may dispense with the rule as to time-bar.

Rao Saheb D. P. DESAI: In clause 3.....

The Honourable the PRESIDENT: We are now concerned with clause 4. Did you not notice that I proposed clause 3 and sat down? What a pity you are not so vigilant. Next time at least please be vigilant.

Clause ordered to stand part of the bill.

*Clause 5 (Contract contravening by-law void).*

Any contract (whether either party thereto is a member of the Association or not) which contravenes any by-law of the Board shall be void.

Mr. A. J. F. HOOD (Bombay Chamber of Commerce): Sir, before moving my amendment to this clause, I request you to advise me as to what the correct form would be.

The Honourable the PRESIDENT: You read your amendment and I shall put it in the proper form.

Mr. A. J. F. HOOD (Bombay Chamber of Commerce): My amendment reads as follows:

"Delete clause 5 and substitute the following: 'Any contract (whether either party thereto is a member of the Association or not) which is entered into after the date on which by-laws under this Act are sanctioned by the Governor-in-Council and which contravenes any such by-law shall be void."

The necessity for this amendment arises out of the provision in clause 7 which provides for contracts entered into after 31st May 1922 and prior to the coming into operation of this Act. There is a danger that contracts entered into subsequent to the passing of this Act and prior to assent being given to it by the Governor-General might become void under clause 5. Therefore, Sir, I have asked leave to move this amendment in order to do away with that danger. It is a small legal point.

The Honourable the PRESIDENT: The question proposed is:

In clause 5, line 1, after the word 'not' and parenthesis *add* the words "which is entered into after the date on which by-laws under this Act have been sanctioned by the Governor-in-Council and:"

after the word 'any' in line 2, *add* the word "such",

and *leave out* the words "of the Board" in line 2.

So that there will be three amendments to this clause, and I will put them separately. But the last two are consequential upon the first, and as they relate to the same clause the discussion will be upon all the three amendments taken together, that is because they hang together. When and if passed, the clause as amended will read thus:

"Any contract (whether either party thereto is a member of the Association or not) which is entered into after the date on which by-laws under this Act have been sanctioned by the Governor-in-Council and which contravenes any such by-law shall be void."

Mr. C. M. GANDHI (Surat City): I want to speak one word about this section. I think, Sir, that the by-laws may be sanctioned by Government, but still the public may not know about them until they are published. What about those contracts which are entered into after the date of sanction and before people come to know about it? That is all I have to say, and I will ask the honourable mover to consider whether it will not be proper for him to add the words "and after the by-laws are published" in the amendment moved by him.

Mr. A. J. F. HOOD: Clause 3, sub-section (3), provides:

"By laws made by the Board under sub-section (1) and sanctioned by the Governor in Council shall be published in the *Bombay Government Gazette*."

Mr. C. M. GANDHI: The by-laws may be sanctioned and yet people may not know about it for some time to come. What about those contracts which are entered into without knowing that the by-laws have been sanctioned? Will they be void?

The Honourable Sir IBRAHIM RAHIMTOOLA: I think there is a great deal of force in what Mr. Gandhi says. I understood him to make the suggestion that the clause should be amended thus:

"Any contract (whether either party thereto is a member of the Association or not) which is entered into after the date on which by-laws under this Act have been sanctioned by the Governor-in-Council and published in the *Bombay Government Gazette*,..."

I think Sir, that is fair to the public. I do not think it can be objected to. If the amendment is carried, the public will have notice and then only the liability will arise.

The Honourable the PRESIDENT: Do you accept that, Mr. Hood?

Mr. A. J. F. HOOD: Yes, Sir.

Rao Bahadur R. R. KALE: Sub-clause (3) of clause 3 says:

"By-laws made by the Board under sub-section (1) and sanctioned by the Governor in Council shall be published in the *Bombay Government Gazette*; by-laws so made and sanctioned may be enforced *before publication in the said Gazette*."

This seems to be inconsistent with the proposed amendment.

Mr. PURSHOTAMDAS THAKURDAS: Sir, there is a great deal of difference between clause 3 (3) and clause 5. What is referred to in clause 5 will happen only once. What is mentioned in clause 3 (3) is applicable to the current by-laws of the Association during the currency of the Act and the Council can easily understand how a minor alteration due to a printing or typing mistake may necessitate the sanction of the Government. Clause 5 relates to contracts being void. Once the Government approve the bye-laws.....

The Honourable the PRESIDENT: Well, we have gone beyond clause 3.

Rao Bahadur R. R. KALE: I pointed out an inconsistency between the proposed amendment and clause 3, sub-clause (3).

The Honourable the PRESIDENT: We have passed clause 3. That is for the Council to say.

Rao Saheb D. P. DESAI: Sir, I want to move an amendment.

The Honourable the PRESIDENT: Let us get rid of this amendment. What is your amendment? Do you want the omission of this clause?

Rao Saheb D. P. DESAI: No, Sir.

The Honourable the PRESIDENT: Then, you cannot move any amendment now. Rao Bahadur Kale's doubt has not been removed. Is there any answer to it?

The Honourable Sir IBRAHIM RAHIMTOOLA: Mr. Purshotamdas Thakurdas has given an answer.

Mr. PURSHOTAMDAS THAKURDAS: I have explained it, Sir. The effect of clause 5, as amended by Mr. Hood is, after the first time that Government sanctions the by-laws, any contracts by persons inside or outside the association, which contravene those by-laws will be void. The honourable member from Surat suggested that the contracts should be void only after the by-laws have been published in the *Bombay Government Gazette*, which means only after the public know that Government have passed the by-laws. This has been agreed to by the Honourable the Leader of the House. Now, that is a very important thing and refers to contracts becoming void. This will happen only once. What is referred to in clause 3, sub-clause (3), relates to the general approval of Government to the various by-laws which may be made from time to time. After once the Government approve of one set of by-laws, that same set or another corrected set is bound to be in force all through the currency of the Act. Therefore I submit, Sir, that it strikes me as there being no connection between clause 5 as amended now and clause 3, sub-clause (3)

Question put:

That the words " which is entered into after the date on which by-laws under this Act have been sanctioned by the Governor-in-Council and " be added in clause 5, line 1, after the word ' not ' and parenthesis.

Amendment carried.

Question put:

That the words " and published in the *Bombay Government Gazette* " be added after the words " Governor-in-Council and "

Amendment carried.

Question put :

That the word " such " be added after the word " any " in line 2 of clause 5.

Amendment carried.

Question put :

That the words " of the Board " in line 2 of clause 5 be left out.

Amendment carried.

Rao Saheb D. P. DESAI (Kaira District) : I move :

That instead of the words " whether either party thereto is a member of the Association or not " the following words shall be substituted :—

" when both parties are members of the Association."

The Honourable the PRESIDENT : I am afraid, Rao Saheb Dadubhai, you are not careful about the Standing Orders. The Standing Orders are that when a clause is proposed to be amended and when certain orders have been put for the purpose of amendment to the Council, you cannot go backwards but you must move forwards.

Rao Saheb D. P. DESAI : But, Sir, I was asked by you to move my amendment after Mr. Hood's amendment was disposed of.

The Honourable the PRESIDENT : You ought to have risen before Mr. Hood. There is another difficulty. Your amendment is time-barred, it is beyond time. Mr. Hood's also was beyond time technically, but he gave me notice two or three days ago : it has been with me three days and now you spring this upon me at the last moment. I cannot allow that.

Rao Saheb D. P. DESAI : I have given notice to the Secretary more than three days back.

The Honourable the PRESIDENT : Then I think you ought to have risen before Mr. Hood did.

Rao Saheb D. P. DESAI : I had risen before Mr. Hood to move but....

The Honourable the PRESIDENT : My second objection is that you are now going backward instead of moving forwards. That cannot be allowed.

Rao Saheb D. P. DESAI : I had risen before Mr. Hood.....

The Honourable the PRESIDENT : Why did you not tell me when Mr. Hood proposed his amendment that you wanted to propose a thing which was previous to his ?

Rao Saheb D. P. DESAI : You asked me to wait till after Mr. Hood's amendment was disposed of.

The Honourable the PRESIDENT : I presumed that you knew the Standing Orders and the rule which I have laid down from time to time. No one can plead ignorance of it because I have insisted upon it and it is a very plain commonsense rule that in the case of legislation you must move forward in the amendment of a clause and never go backward. I am very sorry, it is too late, but it is open to you to reject this clause altogether if you are not satisfied with it, to vote against it.

Dr. S. S. BATLIWALA (Bombay City, North) : If Mr. Hood was in possession of the House, how could Rao Saheb Dadubhai Desai have moved his amendment ?

The Honourable the PRESIDENT : It is not proper to catechise the Chair like that. It is rather hard upon the Chair to be called upon to explain when it is doing its best.

Clause as amended ordered to stand part of the bill.

*Clause* 6 (*Officer, etc., not personally responsible*).

No officer or servant of the Association shall be held personally responsible for anything *in good faith* done or omitted by him within the scope of his authority as such officer or servant in relation to anything authorised by this Act or the by-laws made thereunder.

Mr. A. N. SURVE (Bombay City, North) : I beg to move :

In clause 6, line 2, leave out the words " in good faith " and insert instead the words " in good faith and not dishonestly " in the same line after the word " omitted ".

Sir, the clause was amended in the select committee by the addition of the words " in good faith. " The clause as it originally stood did not contain those words, but contained instead the words " provided he was not thereby dishonest, " which are now scored out. My reasons for adding " in good faith and not dishonestly " are these, that the words " good faith " are defined in two enactments. First, in the General Clauses Act, section 20. There " good faith " is defined as follows :

" A thing shall be deemed to be done in ' good faith ' where it is in fact done honestly, whether it is done negligently or not. "

Now in an immunity clause, which is generally inserted in the interests of the Government, the word " negligently " may be tolerated ; but in the case of this association, in whose favour this enactment is going to be passed, if its officers or servants are to act negligently, I cannot understand why they should be given an immunity. If they are negligent, they must be responsible for their negligence. Again the words " good faith " are also defined in the Indian Penal Code in this way :

" Nothing is said to be done or believed in good faith which is done or believed without due care or attention. "

A man may be acting with any amount of care and any amount of attention, but if he is dishonest, he must not get the benefit of the immunity. The man may be very careful and very attentive, but, in spite of that, he does not become harmless. We must see that no man shall be put to loss on account of inattention or want of care and also on account of dishonesty in the technical sense. " Dishonestly " is defined as follows :

" Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person is said to do that thing dishonestly. "

Now here, these officers and servants are placed in a position which they can abuse by causing wrongful gain to one person or wrongful loss to another person. Therefore, I submit that the addition of the words " in good faith " by itself is not sufficient, and in order to be on the safe side, we must add the words " not dishonestly " also. As the clause was first drafted, the idea of dishonesty was there, as it contained the words " provided he was not thereby dishonest." This clause has been scored out by the select committee and I want by my amendment that it should form part of the clause. With this explanation I leave the amendment in the hands of the honourable House.

The Honourable Sir IBRAHIM RAHIMTOOLA : Sir, I have carefully followed the speech which the honourable member made in support of his amendment. He read out the definition of the words " good faith " as given in the General Clauses Act. There it clearly means that anything not done honestly is not in good faith. Therefore, the words " not done dishonestly " are already covered by the words " in good faith ". The only word which is not covered by these words is " negligently, " but the honourable member has not

[Sir Ibrahim Rahimtoola]

moved an amendment to introduce the word "negligently." If he had done so, there would have been something to be said in his favour, but he wants to add words which are already covered by the clause. Government are quite indifferent as to the amount of protection to be given to the officers or servants of the board, and if any amendment is to be moved, a case can certainly be made out.....

The Honourable the PRESIDENT: I do not know whether the Honourable the Leader of the House has understood the honourable mover of the amendment. So far as I have understood him, his meaning seems to be that the General Clauses Act defines the words "good faith" in one way, the Penal Code defines them in another way, and therefore it is necessary that in this legislation we must be quite clear as to what interpretation is to be put upon the words "good faith". That may be a good argument or a bad argument, but that seems to be his point. Isn't that so, Mr. Surve?

Mr. A. N. SURVE: Yes, Sir.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, I am not a lawyer, but, as far as I know, the provisions of all Acts in this Presidency are interpreted according to the General Clauses Act, and the interpretation of this clause will be in accordance with that Act. The General Clauses Act provides.....

The Honourable the PRESIDENT: What is the definition as given in the General Clauses Act?

Mr. A. N. SURVE: The definition there is:

"A thing shall be deemed to be done in good faith where it is in fact done honestly."

"Dishonestly" is defined; "honestly" is not defined.

The Honourable the PRESIDENT: The fact of it is, in the Indian Penal Code due care and attention is given to the definition relating to criminal offences because the words there are therein specified. The definition in the General Clauses Act is applied to all other Acts. The clause in this bill says no officer or servant of the association shall be held "personally" responsible. The word here is not "criminally" but "personally". The Honourable member from Bombay (Mr. Surve) is entitled to contend that it must be made quite clear and it is for Government to consider his contention.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, the whole position is this: Government do not wish to afford protection by legislation to the servants or officers of the board beyond a legitimate limit. When I heard the honourable member's speech, I found that what he wanted was to protect the public, as against the servants or the officers of the association, so far as negligence was concerned. If he had moved an amendment for the addition of the words "in good faith and not negligently done or omitted," I would have been prepared to accept it.

The Honourable the PRESIDENT: On that assurance of the Government that the definition of the General Clauses Act ought to prevail, and not of the Penal Code, perhaps the honourable member (Mr. Surve) will consider whether he should withdraw his amendment or not.

The Honourable Sir IBRAHIM RAHIMTOOLA: I am much obliged for your suggestion. If Mr. Surve alters his amendment, and instead of the words 'not dishonestly' inserts the words 'not negligently', I would be prepared to accept it.

The Honourable Mr. M. H. W. HAYWARD: Mr. President, I should like to say a word, if I may. I would put it this way. The Bombay General Clauses Act, 1904, will apply to this bill when it becomes law. Section 3 of that Act says:

"In this Act, and in all Bombay Acts made after the commencement of this Act, unless there is anything repugnant in the subject or context, a thing shall be deemed to be done in good faith where it is in fact done honestly, whether it is done negligently or not."

Therefore, that definition will apply. The honourable mover of the amendment wants to provide that if a thing is done in good faith, but still negligently, the doer shall be responsible. His object can be attained by inserting after the words 'in good faith' the words 'and not negligently', because, then those words will be in the Act and they will modify to that extent the definition as appearing in the Bombay General Clauses Act. If the President were to allow that amendment to be put, then the Honourable the Leader of the House would have no objection to accepting it.

The Honourable the PRESIDENT: Does the Honourable the Leader of the House accept it?

The Honourable Sir IBRAHIM RAHIMTOOLA: If the honourable mover alters his amendment by substituting the words "and not negligently" for the words "and not dishonestly", I am prepared to accept it.

Mr. A. N. SURVE: I should have no objection to accepting the amendment that is suggested by the Leader of the House. My difficulty is that that would absolve the man as far as civil liability is concerned. But what about the criminal liability?

The Honourable the PRESIDENT: Personal liability may be different from criminal liability and mean civil liability.

Mr. A. N. SURVE: I accept the amendment suggested.

The Honourable the PRESIDENT: The definition from the Bombay General Clauses Act, which has been read out by the Honourable the Home Member puts the meaning on the term 'good faith' just as you want it.

Mr. A. N. SURVE: I have stated that I am going to accept the amendment.

Question put that in line 2 of clause 6, after the words 'in good faith' the words 'and not negligently' be added.

Amendment carried.

Clause as amended ordered to stand part of the bill.

*Clause* 7 (*Act to apply to contracts entered into after* 31*st May* 1922).

Contracts for the purchase and sale of cotton entered into subsequent to 31st May 1922 and prior to the coming into operation of this Act under the rules or by-laws of the Association shall be subject to the provisions of this Act and of by-laws made thereunder.

Mr. A. N. SURVE: Mr. President, I move

"That clause 7 of the bill be deleted."

Firstly because the bill, when it was referred to the select committee did not contain this clause. Secondly because as the select committee was not asked to give retrospective effect to this enactment, therefore the insertion of the clause is in excess of the powers of the select committee. For these reasons it should be deleted from this bill.

(At this stage the Honourable the President withdrew and the Deputy President occupied the Chair.)

The Deputy PRESIDENT: My attention has been drawn to the fact that the honourable member's amendment is a direct negative, and therefore he will be free to vote against it, when it is put to the vote.

Clause ordered to stand part of the bill.

Clause 1 (short title and duration) ordered to stand part of the bill.

Preamble ordered to stand part of the bill.

(At this stage the Honourable the President resumed the chair.)

The Honourable the PRESIDENT: Bill No. XIII of 1922, a bill to provide for the regulation and control of transactions in cotton in Bombay, has duly passed the second reading.

Third reading.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, I beg to move the third reading of this bill. In the first place I formally ask you, Sir, to suspend the rules. There was only one amendment carried at the second reading and that is the only change that has been made in the bill. We have had a full discussion on the second reading and I think it will be appropriate to proceed with the consideration of the third reading.

The Honourable the PRESIDENT: I suspend the provision of the Standing Order and allow.

Question put that Bill No. XIII of 1922, a bill to provide for the regulation and control of transactions in cotton in Bombay, be now read a third time.

The House divided. Ayes 38. Noes 29.

Bill read a third time.

Motion carried.

*Division No. 6.*

**Ayes.**

ADDYMAN, Mr. J.
BATLIWALA, Dr. S. S.
CHITALE, Rao Bahadur G. K.
CLAYTON, Mr. F.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DWARKADAS, Mr. KANJI
GHULAM HUSSAIN, The Honourable Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GRIFFITH, Mr. F. C.
HAVELIVALA, Mr. M. A.
HAYWARD, The Honourable Mr. M. H. W.
HOOD, Mr. A. J. F.
JENNINGS, Major-General W. E.
KALE, Rao Bahadur R. R.
KER, Mr. J. C.
LAHORI, Khan Bahadur HAJI AMIRALI
LAWRENCE, The Honourable Mr. H. S.
LORY, Mr. F. B. P.
MEAD, Mr. P. J.
MODI, Sardar DAVAR T. K.
MOHIDINKHAN, Khan Saheb HAJI HAZRATH KHAN
MONIE, Mr. P. W.
MOTIRAM, Rao Saheb RUPCHAND
NELSON, Mr. F.
OJHA, Mr. DIPCHAND T.
PAINTER, Mr. H. L.
PARANJPYE, The Honourable Dr. R. P.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Honourable Sir IBRAHIM
ROTHFELD, Mr. O.
SETALVAD, The Honourable Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY
THAKOR of AMOD, Sardar NAHARSINGHJI
THAKURDAS, Mr. PURSHOTAMDAS
THOMAS, Mr. G. A.

*Tellers for the Ayes:* Major-General W. E. JENNINGS and Mr. E. M. PROES.

**Noes.**

ADHAV, Mr. P. N.
BHATE, Mr. G. C.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHIKODI, Mr. P. R.
COOPER, Khan Bahadur D. B.
DESAI, Rao Saheb DADUBHAI P.
GANDHI, Mr. C. M.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HAJI KHAMISO GUL MAHOMED, Mr.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
ISRAN, Khan Saheb G. A.
JADHAV, Mr. B. V.
KAMBLI, Mr. S. T.
KASSIM, Mr. G. H.
MUTALIK, Sardar V. N.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
PAHALAJANI, Mr. B. G.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
SAHEBWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SAYED NABI BAKSH SHAH
SURVE, Mr. A. N.
TRIVEDI, Mr. G. B.
VICHARE, Rao Bahadur D. A.

*Tellers for the Noes :* Mr. P. R. CHIKODI and Mr. S. K. BOLE.

The Honourable the PRESIDENT : The motion for the third reading being carried, only verbal amendments may be moved.

Rao Saheb D. P. Desai moved an amendment which was not audible.

The Honourable the PRESIDENT : This is not a verbal amendment. A verbal amendment does not mean altering the substance of any provision in the bill. A verbal amendment means a mere change of words and not of substance. Is there any honourable member who wishes to suggest any verbal amendment ?

I declare that the bill is now read the third time and passed.

The Council is adjourned till 2 p.m. on Thursday, the 28th September 1922.

*Thursday, the 28th September 1922.*

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The Council re-assembled at the Council Hall, Poona, on Thursday, the 28th September 1922, at 2 p. m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
CLAYTON, Mr. F.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA.
DWARKADAS, Mr. KANJI
FERNANDES, Major C.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D.D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GODBOLE, Dewan Bahadur K. R.
GRIFFITH, Mr. F. C.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
HOOD, Mr. A. J. F.

HULKOTI, Mr. CHANNAPPA CHANVIRAPPA
ISRAN, Khan Saheb G. A.
JADHAV, Mr. B. V.
JENNINGS, Major-General W. E.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
KANGA, Mr. J. B.
KASSIM, Mr. G. H.
KER, Mr. J. C.
LAGHARI, Khan Bahadur KHAIR BAKSH
LAHORI, Khan Bahadur HAJI AMIRALI
LALBHAI AMBARAM, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LORY, Mr. F. B. P.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MODI, Sardar Davar T. K.
MOHIDINKHAN, Khan Saheb HAJI HAZRATH KHAN
MOHOMED SALAHUDDIN K., Mr.
MONIE, Mr. P. W.
MOUNTFORD, Mr. L. J.
MUTALIK, Sardar V. N.
NELSON, Mr. F.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PAINTER, Mr. H. L.
PARANJPYE, The Hon'ble Dr. R. P.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PRADHAN, Mr. M. W.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SAYED, Mr. MAHOMED KAMAL SHAH
SETALVAD, The Hon'ble Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY

SURVE, Mr. A. N.

THAKOR of AMOD, Sardar NAHARSINGHJI

THAKURDAS, Mr. PURSHOTAMDAS

THOMAS, Mr. G. A.

TRIVEDI, Mr. G. B.

VICHARE, Rao Bahadur D. A.

The Honourable the PRESIDENT: Order, order.

## A BILL FURTHER TO AMEND THE BOMBAY RENT (WAR RESTRICTIONS) ACT, 1918, AND THE BOMBAY RENT (WAR RESTRICTIONS, NO. 2) ACT, 1918, (BILL NO. XV OF 1922).

First reading.

The Honourable Sir CHIMANLAL SETALVAD: I beg to move, Sir, that Bill No. XV of 1922 be now read the first time. Honourable members will remember that in 1918 the Legislative Council enacted two measures for controlling rents in Bombay. The first Act was Act II of 1918 and the second was Act VII of 1918, which latter Act related to what are called small premises, that is premises the rent of which does not exceed Rs. 20, and special machinery was provided by the second Act for dealing with those small premises. These enactments were passed in 1918 owing to the exceptional circumstances and conditions that were prevailing in Bombay owing to the shortage of houses, accentuated as that circumstance was by the war. The Council will remember that only the existence of those exceptional circumstances was thought to justify those measures. For, it must be borne in mind that after all the house-owners in Bombay or in other places are suppliers of a commodity like any other dealers, and ordinarily the prices they charge for the commodity they supply must be left to the operation of the law of supply and demand. Only exceptional circumstances would justify measures which would restrict the ordinary law of supply and demand. Such exceptional circumstances had then arisen and that was the justification of those measures. In the statement of objects and reasons for the first Act it is mentioned:

> "The justification for this kind of legislation is that it conduces to the interest of the community as a whole to regulate to some extent the power, which the purely abnormal circumstances of the war have placed in the hands of persons occupying certain positions in the economic organisation, to take advantage of those less favourably situated."

Now the first Act, that is Act II of 1918, provided that "only standard rents" should be charged for premises in Bombay and standard rent was defined in section 2 of the Act as—

> "the rent at which the premises were let on the first day of January 1916, or, where they were not let on that date, the rent at which they were last let before that date, with the addition, in either of the foregoing cases, of ten per cent. of such rent."

The second Act also applied to all premises, not only to dwelling houses, but office premises, business premises and premises of all kinds. Now, in enacting those measures, the legislature here went much beyond the corresponding legislation in England. By the corresponding Act of 1915 in England, the control was resorted to only with regard to dwelling houses, for office and business premises were not brought under control at all, and with regard to dwelling houses also there was a restriction; only houses with an annual rent of £35 in England, £30 in Scotland and £26 elsewhere should be brought under

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the Act. Dwelling houses with annual rent exceeding these amounts were not controlled under the Act at all and they remained altogether unrestricted. So also all office and business premises remained uncontrolled. And so it continued till you come to 1920 when the Rent Act of 1920 enacted that that Act would apply to all dwelling houses the annual rent of which was not above £125 in England, £90 in Scotland, and £78 elsewhere. The Act was not made applicable to all dwelling houses, but only to dwelling houses within the limits mentioned. By the Act of 1920 they brought under control also business premises, the rents of which were within the limits mentioned. Honourable members will see therefore that our enactments went beyond the English legislation. We enacted control for all premises—dwelling houses, office and business premises—and without any limit as to the annual rent of those premises. The present Acts have been in operation for four years and more. Honourable members will remember that in September 1920, Mr. Sethna, then a member of the Bombay Legislative Council, moved a resolution which was accepted and passed by the Council recommending the appointment of a committee to consider and report upon the working of the Rent Acts and to suggest such amendments as were thought necessary. If honourable members have acquainted themselves with the discussion in the Council that took place then, they will see the various points that were emphasised at the time. Various abuses had grown up in the administration of the Acts and it was pointed out that steps should be taken to remedy those abuses. As a result of that resolution Government in January 1921 appointed a committee for the purpose of investigating the working of the Acts and suggesting any modifications thereof that in their view seemed desirable. The committee, as honourable members will see from the report which is in their hands, consisted of people with considerable experience of the city of Bombay and represented various interests that required to be represented on such a committee. The report shews that the committee examined a large number of witnesses, both house-owners and tenants, and the committee had also before them a large number of written memoranda by various people on the questions which were referred to them for opinion. The committee made their report and the present bill is based on some of the principal recommendations of that committee. That report made various further recommendations but Government took the view that inasmuch as this was after all emergency legislation and not intended to be permanent, it would not be desirable to complicate the situation by giving effect to the various other recommendations of the committee which involved the constitution of various offices and courts and other machinery. They took the view that it would be enough if effect was given only to such recommendations in the report as the circumstances of the case made it desirable to give effect to. Honourable members must have gone through the bill and observed that the points that the bill deals with are really four. The first point is about the duration of the Act—how long this measure is to continue in force. The second point is the percentage of increase to be allowed to house-owners with regard to their premises. The Act, as you have observed, gave ten per cent. over the rent of January 1916. The increase proposed under the bill is 33⅓ per cent. Then the third point is with regard to sub-letting and the abolition of what is known in Bombay as the rent-farmer. The fourth point relates to the exemption of buildings not let before a particular date in 1922 and also buildings let on a lease of three years or more from such date as the Council will fix.

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Taking the first point, namely, the duration of the Act, when the Act was enacted in 1918 the period of its existence was to be the continuance of the war and six months thereafter or any such further period as Government might choose to extend it to not exceeding two years—therefore the maximum period of existence was two years after the termination of the war. The war terminated officially on the 31st August 1921, and Government in the exercise of the powers vested in it under the Act gave the full extension of two years with the result that the two Acts will in the ordinary course expire on the 31st of August 1923. The committee, as honourable members must have observed, recommended extension of the life of the Acts to the 31st of March 1924 and the bill takes it somewhat further by taking it to 31st August 1924, that is, one year beyond the date on which it would otherwise expire.

I may tell the House how the matter was dealt with in the case of corresponding English legislation. The original Act of 1915 was practically in the same terms as regards duration as our Act, *i.e.*, the continuance of war and six months thereafter. Then the Act of 1920 extended the provisions with regard to dwelling houses up to the 24th of June 1923, so that in England this legislation restricting the rents regarding dwelling houses up to certain limits of rentals will expire on the 24th of June 1923. With regard to business premises with regard to which again the rental limits apply, the Act of 1920 provided that the provisions would come to an end on the 24th of June 1921; so that with regard to business premises, the operation of the Act there has already ceased. The question therefore for the House is, what under the circumstances at present existing in Bombay is the desirable limit of the duration of the Act. As I pointed out, if nothing else was done it would in the ordinary course expire in August 1923. The bill proposes to keep it alive a year more, *i. e.*, up to the 31st of August 1924.

With regard to the conditions at present obtaining in Bombay which must determine the question of this duration of the Act, I do not think there will be any difference of opinion that so far as office and business premises are concerned, there is really no need for any further control. Experience tells us that the rents of offices and business premises have considerably gone down and large business premises newly built on the Ballard Estate have not evoked demand even at very moderate rents. Therefore, the position is, I submit, that there is really no need for extending the duration of the Act with regard to offices and business premises. Still, it was not thought desirable by Government to discriminate between different classes of premises and the extension to the 31st of August 1924 is proposed with regard to office and business premises also. If however it is considered desirable to make the extension longer, it will be necessary to discriminate. And I can well conceive that some members of this Council are of the view that there should be really no extension of the Act with regard to office and business premises.

With regard to dwelling houses, I quite recognise that there is considerable room for difference of opinion as to how long the Act should extend. There again, those who are in favour of the extension for a period longer than what is proposed in the Bill, I think, have in mind more what are called the small premises than the bigger ones—premises with a rent of Rs. 20, or Rs. 50 or Rs. 100, or any other limit according to each individual opinion. As I say, these are all matters on which it is possible to hold different views. You may differentiate between small premises and big ones, between business premises and dwelling houses. I submit that these are all matters that can be threshed

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out in the select committee, and some satisfactory solution may be arrived at with a view to harmonise the different views that might be held, and I should not think it would be a difficult matter to arrive at a solution on that point which would meet all views. I would therefore tell the Council that this is a matter which will be thoroughly gone into in the select committee, and there will be ample time then to properly adjust the question.

Then the next question is, as I have said, the percentage of increase to be allowed to the house-owner, which is put down in the bill at 33⅓ per cent. in substitution of the 10 per cent. allowed by the existing Act. Now, with regard to this point, the Council must remember that the house-owners have come in for a great deal of odium at present, and considerable prejudice has come to be attached to them by the use of the expression 'landlords'. But, after all, as I have said, they are suppliers of a commodity, and they have to make their living by the supply of their commodity, and it must be remembered that the cost of living has gone up with regard to all including the house-owners. They have also to maintain themselves. It must also be remembered that there has been a general increase in the rate of interest obtainable on money. Where originally you could get 3½ per cent., you now get 6 and 6½ per cent. free of income-tax on Government paper. Therefore, one would naturally expect a house-owner also to get, and justly, a larger return on the capital that is invested by him in his business. What that limit should be is another question altogether. Then, it must further be remembered that if there had been no war and no rent-restriction-legislation, in the ordinary course there would have been some rise in rents. Even if no exceptional circumstances had interfered, past experience shows that house rents would certainly have gone up, not considerably but certainly in certain normal proportion. Therefore, you must make allowance for the fact that you have fixed the house-owner down to the rent of January 1916 and you are not allowing him even the normal increase that he would have ordinarily earned in six years. I do not suggest for a moment that these are facts that ought to determine the issue, but these are facts that have to be borne in mind in arriving at the increase which may be considered, under all the circumstances, to be reasonable. In this connection I would invite attention to the figures that have been worked out by the committe in paragraph 10 of their report on this point, and this is what they say :

"Under the Bombay Rent Acts, the landlord is allowed an increase of 10 per cent. over the rent of January 1916 and no allowance is given to the landlord if he does the repairs as in Bombay he generally does. It therefore appears that on the analogy of the English Act the landlords under the Bombay Rent Acts are entitled to a substantial increase. To examine this question more closely we asked some expert witnesses to work out from actual examples what would be the effect on the rate of interest received from the capital invested (as on 1st January 1916) if rents were increased by varying percentages over the 1916 rents. The results are as follows :—

"If a 5 per cent. net return was obtained in 1916 then in 1921 an increase of 25 per cent. (instead of 10) on the standard rent would yield a return of 6·11 per cent. on the capital."

Surely a return of 6·11 per cent. would not be considered excessive.

Other examples showing the actual net percentage in 1916 are as follows :— Then they take different localities. Parel Road : the return in 1916 was 5·26 per cent ; if you give 25 per cent. increase in rents the present yield would be 6·57 per cent ; a 33⅓ per cent. increase would yield 7·12 per cent., and a 50 per cent. increase would yield 8·21 per cent. With regard to Bhendy Bazar, the return in 1916 is 5 per cent ; at 25 per cent. increase it would be 6·54 per cent. at 33⅓ per cent. increase the present yield would be 7·15 per cent. and at 50 per cent. increase the yield would be 8.38 per cent., and so on with regard to various localities.

Then, further, it must be remembered that these house-owners are not, as is generally conceived, rich people who fatten on their tenants. It must

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be remembered that in Bombay a large number of house-owners look only to their houses for their living. They have made their whole investment in a building. There is a large number of widows and others whose money is invested in houses, and they live on the income derived therefrom. It is not a case of the wealthy classes oppressing in that sense the poorer classes. They are people who have invested their money in a building, out of which they derive an income, from which they make their living. That is pointed out by the dissenting minutes to this report signed by Mr. Brander, the Collector of Bombay, Mr. Hooseinbhoy Abdoolabhoy Laljee, Mr. N. V. Mandlik, and Mr. Jehangir B. Petit. They gather the following facts from the statement laid before them based on the Bombay Municipal Assessment records : the majority of landlords belong to the middle classes : the total number of properties is 65,051 ; the owners of properties are 16,094 ; widow property-holders are 886 ; property holders paying the qualifying tax of Rs. 30 per annum or more are 8,525 ; and widow property-holders paying the qualifying tax of Rs. 30 per annum or more are 643. Thus out of 16,094 property-owners, 7,469 do not get an income of even Rs. 300 per annum from their property. This will show that we are not dealing with an exceptionally wealthy class. With regard to this increase, I would ask the honourable members to bear in mind the increase given in the English Act of 1920. There the increase is given in various different ways ; a certain additional percentage, and further additional percentage and so on. When you work it out, it comes to roughly an increase of 40 per cent. on residential premises and 60 per cent. on business premises. Under these circumstances, the question is what increase the House will allow over the Act of 1918. I have submitted to the Council the various circumstances and points that arise for consideration. As I have said, it is again a matter where there is considerable room for difference of opinion. There may be some who may think that 33⅓ per cent. increase would work harshly while some will consider that a greater increase was necessary. Some may advocate a graded increase up to a certain limit. These are possible adjustments according to the circumstances of the case, and can be dealt with in the select committee. We are not wedded to any particular figure.

Then, Sir, the third point that I mentioned was with regard to subletting. I do not think there will be any difference of opinion with regard to this matter, for it is well known how scandalous the subletting has been with regard to various premises. Monthly tenants, for instance, take advantage of the Act, pass on their premises to other sub-tenants at greatly increased rent, and pocket the difference. The Act never intended that the tenants should profiteer. There are cases known where monthly tenants have retired to their homes up-country getting an annuity of Rs. 300 to Rs. 400 per mensem while the Rent Act lasts and are living upon it. That was never intended or desired when the Act was enacted. This bill provides that a tenant cannot sublet without the permission of the owner. It was never intended that middlemen should make a profit. With regard to business-houses, I have known of cases in which a tenant who, while paying for a flat Rs. 600 or Rs. 700 per month has sub-let three-fourths of it for Rs. 2,000, himself occupying the remaining portion free and making a monthly profit of over Rs. 1,000 in the bargain. Under the bill subletting beyond the term of tenancy will not be allowed without the express sanction of the house-owner. During the term of tenancy he can sublet, but beyond it, he must have the sanction of the house-owner ; if he sublets beyond the term of his tenancy, the bill will give him no protection.

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Clause 4 of the bill debars subletting, prohibits subletting after the date of the publication of the bill. It is for consideration whether subletting and profiteering by the tenant should not now cease even when the subletting has taken place at any time after the Act of 1918. Those who have sublet and derived the benefit till now must consider themselves fortunate that up to this time they have been allowed to profiteer. There is no hardship if profiteering is now stopped. The bill merely disallows subletting after the date of publication of the bill which certainly, in any event, should be done. No future subletting should be allowed. Then with regard to the exemption of new buildings it is not a new principle at all. That exists under present Acts. There have been suggestions in favour of bringing the new buildings that may be erected hereafter in Bombay within the operation of this bill. That matter was considered fully by the committee, and they rejected the proposal. I submit that control with regard to new buildings will seriously discourage the building of houses in Bombay, and the whole effort of every one should be to produce as early as possible and in as short a time as possible sufficient housing accommodation in Bombay. That is the real remedy for the evil. All these Acts for protecting people are merely palliatives which cannot have any permanent effect. They may be useful for tiding over any period of stress, but, after all, as I have said, the real remedy is the production of housing accommodation to meet the demand, and that is what the City Improvement Trust and the Development Department of Government are doing to the best of their ability. Therefore, under those circumstances, it would not be wise to take any step which would act to discourage the building of houses, particularly as materials and labour have gone very high in Bombay. I know from experience, Sir, that while you could formerly get a carpenter for Rs. 1-8-0 a day you cannot get him now for less than four or five rupees, and even then he does not do the amount of work which he used to do before. And with all that, if you were to bring the new buildings under the Act, it would seriously discourage the building of new houses in Bombay. Therefore, I submit, Sir, that the original Act as well as the bill have wisely put new premises out of the Act.

With regard to leases of more than three years, which are proposed to be be exempted from the operation of the Act, there again, Sir, you will see that it is easily conceivable that tenants are quite prepared to pay a higher rent for a longer security of tenure, for otherwise they would always have the fear of being turned out as soon as the Rent Act expired. It is far better for him instead of taking a lease for a short period to take one for a longer period though at a higher rent. There is no reason why the legislature should interfere with that course of business. It is, therefore, proposed to exempt leases of more than three years from the operation of the enactment.

These are, Sir, mainly the points which I need deal with on the first reading of the bill. As I have mentioned, Sir, the various points on which differences of opinion are possible are points capable of adjustment by discussion and consideration in the select committee.

I omitted to mention one demand that has been made with regard to which my honourable friend Dr. Dadachanji presented a petition the other day. That petition prays that charitable premises may be exempted from the operation of the Act. Cases have been pointed out where tenants who were allowed to occupy rooms at a low rent because their income was below certain limits and therefore they deserved assistance have refused to vacate although their incomes have considerably increased, thus keeping out others more deserving

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of assistance. The petitioners ask that such tenants should not be allowed to continue to live there on the lower rent when their earning capacity has increased and they are able to pay a higher rent; they should then vacate in order to make room for the more needy people who are always demanding housing accommodation. That again, Sir, is a matter which can be considered in the select committee, because it only means the curtailment of the principle of the Act, namely, the interference with the freedom of contract in this matter. The Act can well say "We will exempt a particular class of tenants from its operation." I do not think, Sir, I need detain the House any longer on this first reading and, as I have said, all controversial matters will be open in the select committee to be considered and further dealt with on the second reading of the bill.

The Honourable the PRESIDENT: Before the debate begins, I will dispose of the amendments on paper, notices of which have been given. All the amendments are out of order and therefore, when notices were received, I did not allow them to be printed and circulated. There is a notice of an amendment by the honourable member for Ahmedabad (Rao Bahadur Ramanbhai) about clause 4: "After clause (*a*) add the following as clause (*b*): 'After the word 'terminated' add the following words 'or that the tenant refuses to pay rent until the landlord makes at his own cost repairs to the premises which in the opinion of the Court are reasonably required'." That is entirely a matter of detail relating to a particular clause and does not affect the principle of the bill. Therefore, that amendment is out of order. Then, there are a number of amendments sent in by the honourable member from Thana (Mr. Trivedi). They are also out of order. The amendments are:

"Substitute '1928' for '1924' in clause 2."

"Delete sub-clause (*a*) from clause 3 and renumber respectively sub-clauses (*b*) and (*c*) as (*a*) and (*b*)."

"In clause 5 substitute '1928' for '1924'."

"Delete clause 6."

"That provision be made in the bill to provide penal clauses on the analogy of the latest English Rent Act."

As to this last mentioned amendment, I will refer to it later on again. Then the next notice of amendment is:

"That Rent Control Department contemplated in clause 7 should be under the Municipal Assessor and Commissioner."

That also is a matter of detail. Then the last notice of amendment is:

"That provision be made in the bill to exempt from the operations of the Acts all housing associations or societies or funds or trusts or other institutions in the city which are conducted on fully charitable or semi-charitable lines or which have limited the rates of rents to be charged to their tenants in accordance with certain fixed and recognised rules."

That also is a matter which can be dealt with in the select committee and at the second reading. Therefore, all these amendments are out of order.

As regards the amendment that provision be made in the bill to provide penal clauses on the analogy of the latest English Rent Act, I will only say that that is a matter which can be dealt with in the select committee, provided the penal clauses are necessary and they fall within the principle of the bill. That is all I will say at present and it will all depend on how the penal clauses are drawn up so as to bring them within the principle of the bill and so as not to require my interference ruling them out of order.

With regard to the notices of amendments given by the honourable member for Bombay (Mr. Haji), the first is:

[The President]

After clause 1 of the bill the following shall be inserted :—

"1A. In sub-section (3) of section 1 of the Bombay Rent (War Restrictions No. 2) Act, 1918, for the clause (a) the words '(a) shall come into operation at once in the city of Bombay, the taluka of Salsette of the Thana district, the city and cantonment of Poona, the municipal district of the Poona suburban municipality, the municipal district and cantonment of Karachi, the city of Ahmedabad, the city of Surat and in Aden; and' shall be substituted."

Now as to that amendment, it strikes me that this falls outside the scope of this bill for two reasons. One is that this bill is a bill to amend the Bombay Rent (War Restrictions) Act, 1918, and the Bombay Rent (War Restrictions, No. 2) Act, 1918. And you cannot amend the principle of the bill confined to Bombay by extending it to other places. That would seem to require a separate bill. The conditions of Bombay may be different from the conditions outside. This bill involves the principle of that difference.

Then as to, but one, all of the other notices of the honourable member for Bombay (Mr. Haji) relate to the details of particular sections of the bill, and do not relate to its principle. Therefore they are out of order and may be dealt with in the select committee and on the second reading. As to the notice that

"After clause (*b*) of sub-section (2) of section 2 of the principal Act insert the following new clause :

(3) At any time or times, not being less than 6 months after the date of any increase permitted under this Act," and so on

my ruling is you cannot add a new clause on the first reading. Therefore it is out of order at this stage. Whether this particular clause would come or not within the principle of the bill, when and if it is affirmed by the first reading, it will be for the chairman of the committee first to decide. If this clause is added in committee I reserve to myself the decision of the question whether the additional clause falls within the principle of the bill.

Mr. IBRAHIM S. HAJI : Section 1 of Act II of 1918 expressly lays down as to the places where this Act can come into operation. That is the first Rent Act. It lays down as to which places this Act will be applicable. It is not entirely applicable to Bombay only but to various other places.

The Honourable the PRESIDENT : You see this is not going to be interfered with by the present bill. Sub-section (3) of section 1 of Bombay Act II of 1918 (Bombay Rent War Restrictions Act) says :—

"In such notification the Governor in Council may direct that all or any specified portions of this Act shall come into operation in such local area and shall apply, with such modifications as to dates as he may think necessary, having due regard to the general principles of this Act, to any class or classes of premises as may be specified".

Mr. IBRAHIM S. HAJI : It is not a matter of principle.

The Honourable the PRESIDENT : It may not be a matter of principle so far as these designated localities are concerned but as to the rest, whether and how far they will apply, that is a matter with which I am not concerned at present. All that I can say is the second principle may come into operation, namely, whether it should form a distinct code of legislation. I reserve to myself the right of deciding that at the second reading, should the point arise and should the select committee deal with it. At present if I give a ruling, it will be interfering with the discretionary power of the chairman of the select committee.

Mr. J. ADDYMAN (Bombay City) : Sir, whilst I am not prepared to accept the bill as it is presented, I am prepared to accept though with a certain diffidence, the broad principles embodied therein.

[Mr. J. Addyman]

But whilst doing so, as I have said with diffidence, I really cannot congratulate Government on presenting on the 28th of September 1922 a bill based on the report of the Rent Act Committee and submitted to Government on the 30th of October 1921, especially in view of the fact—and Government must be aware of that fact—that during the eleven months which have elapsed since the issue of that report and the presentation of the bill to this House conditions have changed in many respects to such an extent as to make the major portion of the report obsolete.

Nevertheless, there are certain features embodied in this bill which I appreciate and support. One of these features is that which seeks to make rent-farming illegal. This is certainly a step forward in the right direction, and it is certainly high time that such a principle was embodied in the bill to protect those sub-tenants who have so long been fleeced by those unscrupulous persons who have taken every advantage possible of the serious defects which exist in the bill as it stands. The Honourable Member in charge of the bill has told us that rent-farming was never intended, but I ask why has it so long been permitted ? It is my sincere regret that this House has not been called upon long ago to consider this most important matter.

Another satisfactory feature of the bill is that which seeks to provide for a further extension of the Rent Act covering a period of two years. This is an absolutely necessary provision especially in the interests of the middle and the lower classes.

A Rent Act is an absolute necessity until those conditions obtain which will permit of the unrestricted operation of the economic law of supply and demand.

Such conditions are not yet in sight and indeed no nearer than when the Rent Act was introduced or when the report of the Rent Act Committee was issued. Now, Sir, assuming for a moment that the principles to which I have referred are accepted (as I trust they will be accepted) by this House and that they eventually become part and parcel of the Rent Act, will the Rent Act then assist in one single iota in solving the problem which confronts us ? I would like to refer at this stage to a portion of paragraph 7, page 3 of the report which reads :

"We recognize that emergency rent legislation is but an ephemeral palliative of the housing problem and that the Bombay Rent Acts only afford a breathing space pending the only solution of the matter, namely, the construction of a sufficient number of buildings."

But that sufficient number of buildings is not yet obtained nor will be obtained until that upon which houses can be built, can be purchased at a price which will offer to the prospective builder a reasonable return on his investment based on a reasonable rental to the tenant.

The Honourable Member in charge of the bill has pointed out to the House the importance of encouraging the building of housing. But, Sir, we cannot build houses in the air, we must have land. I would much have preferred to have found myself engaged in a debate which sought to solve the problem rather than taking part in a debate which seeks to extend a relief satisfactory to neither party. I would much have preferred to have found myself attacking not exactly private land-owners but preferably our Trusts, the Improvement Trust for instance, which in some instances has shown an example of profiteering which even a private land-owner could not excel. So long as the Improvement Trust holds out for a profit on land,—which I always understood was taken over by that Trust to develop for the benefit of the communities generally—a profit if anything from 80 per cent. to 100

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per cent. according to site, so long will the housing problem remain. My own community sought, through the European Association, to relieve the acute housing situation by obtaining a site on the Worli estate and made an offer which was felt to be a reasonable offer and which would yield to the Improvement Trust quite a good profit. But the offer was rejected as it was hoped to realise a higher figure. The scheme to provide houses on developed land had to be dropped because the price asked for land made building prohibitive. I appeal to Government to prevent profiteering and we shall then see houses going up and ere long the economic law of supply and demand will be established.

Now, Sir, having dealt with the features embodied in the bill which I am going to support, I will now deal with a feature of the bill which I do not approve of, and that feature is the one which seeks to increase rents 23⅓ per cent. over what is at present allowed and without seeking in the least degree to provide that land-owners shall carry out necessary repairs. I stand at the moment, Sir, not as a European seeking to protect European interests only. I stand here as a unit of this responsible legislative body seeking to legislate in a manner conducive to the best interests of the communities generally. Whilst I am ready to admit that some increase is due, I would have liked the Honourable Member in charge of the bill to have discriminated between those landlords who bought property in a normal market and those who bought at the height of a property boom. If Government seeks to protect those who bought at the height of a boom, then I claim protection should no more be given to a house speculator more than to one who may have speculated in the stock and share bazar. But, Sir, under any circumstances, I think the present time is most inopportune to impose such a heavy burden on tenants especially in view of the fact that in almost every sphere, commercial, railways, etc., there is a depression and unemployment such as Bombay has not known for many years past.

Whilst supporting the first reading of the bill, I hope Government will note the diffidence with which I support the measure.

Dr. K. E. DADACHANJI (Bombay City, South): Sir, I rise to support the first reading of the bill. I beg to offer my hearty congratulations to the Honourable the General Member for the very able and lucid way in which he has explained the whole meaning of the new bill. All the points, one by one, were taken up by him and fully explained, and after that he said that it would be left to the select committee to make alterations in the various provisions as they liked.

Mr. President, long before the war there was no doubt a shortage of houses in the city of Bombay. There were a large number of small houses, which the City Improvement Trust demolished, especially those having a rental of Rs. 20 to Rs. 100, in their various schemes, without providing other houses to replace the houses demolished, with the result that the displaced population had to go somewhere and live as sub-tenants or co-tenants in other houses. The result was overcrowding and rise in the death-rate of the city.

The Bombay Municipal Corporation and their representatives on the Trust board protested and protested against this sort of demolition, and urged that there should be a large number of chawls provided before those houses were demolished. No heed was given to them. Added to this, there was great plague in Gujarat and especially in Ahmedabad which brought a great

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influx of people into the city. And directly after that the war broke out, and the industrial activities promoted by the war invited many industrial adventurers to come to the city, many of them with money and others were in the hope of earning large profits. They all needed house accommodations and as it was not available they offered fancy rents, and landlords, as is human nature, said " Oh, we will take advantage of it ", and they raised their rents. The result was the poor and middle classes were driven out of their houses. The Honourable the General Member has explained that the English Act was taken as our basis. When the old English Act was introduced in the House of Commons the Right Honourable President of the Board of Trade, Mr. Walter Long, distinctly said that that would be a war measure, and therefore a temporary measure ; he would not go into the various details, but at the same time he confessed that it would be a sort of double-edged sword which would cut both ways. That is the case with our present Act which while doing a lot of good has done a lot of mischief to the housing and economic conditions of the city. No Rent Act will augment the supply and control the demand. It has no doubt stopped profiteering by landlords, but it has raised another class of profiteers—I mean the tenants, as has been pointed out by the honourable mover,—and I think I should give you one or two instances although there are many in this respect. There is a shop in Null Bazaar in Bombay. The monthly rent was Rs. 20. That man sub-let it for Rs. 180 and has now retired and enjoys his pension. Tenants living in Improvement Trust chawls also began to profiteer—a tenant paying Rs. 15 took on a sub-tenant on Rs. 20 to Rs. 25. We could not prevent that owing to the Act as it stands now. That being the case, as it has been said by a well-known lawyer, legislation in this case was so very astute that it provided for no increase of rent to be obtaind by the landlord over the standard rent, and if taken, to be refunded, but it did not provide similarly against sub-letting by tenants. Of course it was a measure carried out in a hurry. Mr. President, the great question before us is, what is the condition of the landlords of the city? It is assumed by all that landlords in Bombay city are very rich, but if anybody looks in the municipal assessment books he will be convinced that there are 80 per cent. of one-room tenements in the city. They mostly belong to the middle and upper poor classes. Many of these houses have been mortgaged for domestic needs and municipal requisitions. In the English Act there is control on mortgage money but in our Act there is no such control and the poor landlords have had to pay fancy rates of interest on money obtained from such mortgages. Another thing, Sir, is that there are many people who have to depend for their livelihood solely and wholly on the income they derive in the shape of rents of houses they own. Owing to the restrictions of the Rent Act they cannot sell their houses, and even they cannot transfer their property. That is the state of things prevailing in the city. I should not be taken to mean that the Act should be at once repealed. The Act does need to be continued for some time. What is the effect of it? What we want is to put a stop to sub-letting on the part of tenants. Landlords have found out some nice expedient, namely, when a tenant goes away he quietly takes what is called " pagdi ", *i.e.*, cash premium payment in advance usually far exceeding several times the monthly rent from the party whom he allows to occupy his own rooms and then leases them to him. This system has led to what one of my esteemed friends says " crimes and immoralities ". This is the effect of the law as the Act at present stands.

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It is said that there should be more houses built and my honourable friend Mr. Addyman says that instead of the Rent Act, there should be more houses. I agree with him. But who is to build them? As long as this Rent Act is on the statute-book, no private person will come forward to invest his money in building houses. My friend Sir Dinshaw Petit openly said in the municipal corporation recently that though a large capitalist he would not invest his money in house-building. Materials have risen in cost, labourers and artisans and contractors demand higher and higher rates of remuneration though irregular in their attendance, and if they are not paid they threaten to go away. That is the reason why nobody comes forward to build houses nowadays, rather they would invest in giltedged securities earning interest at 5½ per cent. or 6 per cent. free of income-tax. There is a class of Mahomedans, Sir, in Bombay who according to their religious principles do not believe in earning interest. This class of Mahomedans only seem to be willing to put up houses and invest money in house-buildings. Even as regards this, my friend Mr. Khandwani said to me the other day that he also was tired of the whole thing owing to the cost of materials being so high. He complained that he had a lot of trouble in trying to keep labourers and artisans on the works and to induce them not to go away. He complained also that they demand high wages. Such being the case, I do not think that it will encourage any private enterprise to build more houses and without any private enterprise, I submit, Government alone cannot undertake the whole work of supplying the requisite number of houses. The municipality may be able to do something, the Improvement Trust has also been doing its share in house-building as it has to still to provide for nearly 18,000 people displaced by their various schemes and those houses I have reasons to believe will be finished in two or three years. But that will not suffice. The Development Department is going to provide 50,000 one-room tenements but I do not think that that will be enough either, and for middle classes these tenements will not do. We require more and more houses of a kind which the middle classes can rent. One-room tenements I repeat Sir, will not be sufficient for middle class people who usually form a family of five or more.....

The Honourable the PRESIDENT: Are we not wandering away from the Rent Bill? The question of house accommodation by the Development Department is not the relevant issue before the House.

Dr. K. E. DADACHANJI: My honourable friend Mr. Addyman said his European Association was not treated properly by the Improvement Trust. His association wanted some land at Worli at a cheaper and a reasonable price for housing purposes. We had a petition from the European Association, Mr. Gorrie representing the Chamber of Commerce on the Trust Board advocated it, but they wanted what? A plot nearer the sea which we wanted to rent for Rs. 72 per square yard for which they offered Rs. 32. That cost the Trust over Rs. 45. How could that be done? Mr. Gorrie asked the Board and asked me to support that. How could it be done? There must be some certain reasonable figure, at least Rs. 50 or so. That is why I have referred to the housing question. We do not want to profiteer, that is a sort of a burden on our assets, and I think the Improvement Trust is going to be transferred to the municipality and the whole debt is to be borne by the municipality. I am sure that the municipality will suffer a heavy loss by such transactions. That of course is by the way.

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As regards residential quarters and dwelling houses, there is an opinion outside that residential quarters should be exempted from the operation of the Act. The Honourable the General Member gave reasons but still the opinion is there, I think rightly so, that there should be some distinction observed between residential and office or business premises. It is in these business quarters—business places especially—that sub-letting is going on and profiteering is rampant.

Then, Sir, there is the opinion that instead of 33⅓ per cent. there should be a graduated scale, that those who are paying a rent of Rs. 200 or more should be asked to pay something more, those paying Rs. 100 to Rs. 200 should pay some smaller percentage of increase, say 40 per cent. and below Rs. 100, 33⅓ per cent. or lower. Whether it is reasonable or not, whether it will exceed the capacity of the people concerned, is a matter for the select committee to look into and decide. But these are the points requiring elucidation. If some such relief is given by the select committee, I think it will be a very good thing.

Then as regards sub-letting, the Honourable the General Member has thoroughly explained that sub-letting is extensively going on, and it is intended to put a stop to it. But as regards the pagdi system, I find there is no provision made in the bill. The landlord asks for a cash premium payment before letting out the premises, or what is known as pagdi.

The Honourable Sir CHIMANLAL SETALVAD: That is provided in the existing Act.

Dr. K. E. DADACHANJI: There is no penalty provided. If a provision is made that a landlord demanding a pagdi of Rs. 100 will be fined Rs. 200, then it will be put a stop to. With these few remarks I beg to heartily support the first reading of the bill.

Mr. G. B. TRIVEDI (Thana District): Mr. President, I also join in congratulating the Honourable the General Member on the lucid way in which he has put before the Council the chief provisions of the bill, but on one point I differ from him, and it is this. The Honourable the General Member has made out a case that the Rent Act had to be passed to meet war conditions, but my honourable friend Dr. Dadachanji has just told the House that it was not the war conditions alone that were responsible for the scarcity of houses, but the previous conditions created by the destructive policy of the Improvement Trust were responsible for the shortage of housing accommodation in Bombay, and that whether the war had come or not, there would have been that problem, and there would have been a demand for control of rents even if we had no war. Therefore, I say that it is not merely a war measure, but it is a famine measure, a measure to control the rents due to the famine of housing accommodation. In this connection, I would refer to the Census Report that has been published lately. There it is stated that there is no comparison between overcrowding in Bombay and London and that the Bombay conditions are far worse. I would just give a comparison of the figures for Bombay and for the mofussil. In Bombay there are 22·3 persons living in one building, whereas in Ahmedabad it is 6·2. From this you will see, Sir, that there was already a famine of housing accommodation in Bombay, due to the policy of the Improvement Trust, of destroying first and building afterwards, and it is authoritatively proved that the Improvement Trust has not as yet supplied houses for those who are dishoused.

[Mr. G. B. Trivedi]

Then, the Development Department has taken up this problem, and has undertaken to build 50,000 tenements, to provide housing accommodation for 2,00,000 of poor people. But, what is the period during which they will be able to do this ? From the latest report of the Development Department, we see that this programme will not be completed till 1928. In that case, how can you think that the existing accommodation will be enough by the end of August 1924 ?

Then, I would like to point out another thing. In Bombay, it is estimated that there are at present 35,000 dwelling houses, and some people calculate that there are 22 people for each dwelling house, while others calculate it at 30, and, according to that, there are left about 2,00,000 or more of people to be provided for. That shows that there should be 10,000 more houses built in Bombay, before this problem of overcrowding, or even returning to the normal condition of housing can be solved. Therefore, 10,000 more houses have to be provided in Bombay, and what is the condition ? The rate at which new buildings are being put up in Bombay at present is about 700 per year, so that, if you want 10,000 houses, how many years will it take ? Supposing that this rate is accelerated (which Dr. Dadachanji doubts) by the efforts of the Development Department and the Improvement Trust, what will be the problem ? According to that rate, it will take at least eight years before you can reach the normal state of things that existed before the Improvement Trust began its policy. So that, it will be seen that this Rent Act is not a war measure. You should extend it not merely for one year, but you shall have to extend it for at least eight years, if you want to bring us back to the normal state of things. I do not want to trouble the House further with this aspect of the question, and I hope the House is convinced that our difficulty will not be solved in two years, but that it will take at least eight years before this problem can be solved.

Then there is another thing. The Development Department has undertaken to build 50,000 tenements for the poorer people. The conditions of the Improvement Trust and the Development Department in regard to new dwellings are that there shall be built more and more flats, rather than chawls, so that the problem of the lower middle classes, that is of the clerk and the mehta, remains where it is. They want two-room tenements, and not the one-room tenements which the Development Department has provided for the poor people. The necessity of the lower middle classes is two-room tenements ; you may give them three-room tenements, but at least two rooms will be required. Who is going to provide that ? The new houses that are being built are all flats, chawls are not being built in Bombay, and where will these lower middle classes go ? Where will the clerks find the accommodation ? That is another problem, and in every session, in order to draw the attention of the Development Department to that problem I have put up a resolution recommending that the Development Department should provide 50,000 tenements for the lower middle classes. I do not know whether the attention of Government has been drawn to that, but unless the Development Department will take up the problem, my fear is that nobody else will take it up, because, as my honourable friend Dr. Dadachanmji has said, it does not pay people to invest in building chawls. Therefore, I am almost sure that the Development Department will have to tackle this problem. Further, the famine for houses will drag on till 1928, and not till 1924 only. My submission, therefore, to the House is why not this be extended, not for one year, but for at

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least five years more, till the Development Department finishes its programme of buildings chawls for the poor people? That is one thing.

Then, Sir, as regards the increase of percentages, the Honourable Member in charge was very fair in putting it, but he said that the rate of interest is not enough for a good return for those who have already invested. It is true that it is a misfortune with which we have to sympathise. The question now for consideration is whether we are to sympathise more with the 70 per cent. of the population, the poor and the lower middle classes, than with the poor landlords. I admit according to the committee, the majority of the house-owners are poor, and I am not going to dispute it. But the problem before the House will be whether we are to sympathise with the 70 per cent. of the population who live in one-room tenements—10 or 15 per cent. of them live in two-room tenements—or with the 10,000 and odd house-owners. I do not use the expression landlord, which is much maligned. As regards the question of investment, have not many people suffered by investing in 3½ per cent. Government Promissory Notes and by buying industrial shares? If those people who have invested in landed properties, especially if those that went in speculation suffer, are the Government going to their help? I sympathise with them, but still I say that they are not so much to be sympathised with as the poor and lower middle classes.

Then, much was made of the fact that this bill is on the lines of the English Act, and that in the English Act increases are provided for liberally. But it is authoritatively stated that rents in Bombay are three or four times dearer than in London. I will even quote the authority, if not at present later on, that rents for the same accommodation in Bombay are three times dearer than in London. How can you then compare the state of things in Bombay with the state of things in London? Therefore, the problem is a difficult one, and the poor and lower middle classes deserve the sympathy of the Government more than the house-owners. I have not got much to say about the sub-letting question which will be dealt with by others.. As regards office accommodation I will make one observation. It is true that there are many office premises in Fort, which are not occupied. They are not occupied because the trade is depressed. There are big European and Japanese business houses, as well as small commission houses, the latter being taken up by Indians. If I am deprived of my present business premises, and driven to Ballard Pier, I may be forced to pay rent three times more. It is not out of selfish motives that I bring this point forward. Office and business premises are built on a larger scale in Fort than before, but we do not want to leave our old premises, because we cannot afford to pay higher rent, on account of the depression in trade. Are you going to put these small business houses to the disadvantage of seeking other premises on a much more exhorbitant rent than what they pay now? If business suffers, people will have to pay more. With these few words I support the first reading of the bill. I hope the House will insist on a duration of five years more and exempt the lower middle classes from any further increase of rent, and by exempting the business houses and shops from the protection you will create a position which will be bad for the city of Bombay.

Mr. KANJI DWARKADAS: Sir, the middle classes and labour classes of Bombay owe indeed a very deep debt of gratitude to Lord Willingdon's Government and to the present Government for the protection afforded to them by the Rent Act and to the present Government especially for its extention to the maximum period of two years and for the proposed extension of one year.

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Sir, in a matter like this it helps nobody to call the other party names. In a question like this there are certainly honest differences of opinion, and it does not help one party or the other to call one party hungry wolves, or the other Bolsheviks, when one party or the other supports a bill of this nature or opposes it. I am mentioning this fact, because, in places other than this House, this has been talked about with unnecessary bitterness.

Sir, coming to the very able and lucid speech of the Honourable the General Member, he said that this Act was merely a war measure, and therefore, a measure like this cannot be extended for a long period. Well, Sir.....

The Honourable Sir CHIMANLAL SETALVAD : I did not say that it was a war measure.

Mr. KANJI DWARKADAS : I accept the Honourable Member's explanation. But I think that a measure of this nature has to be extended for a much longer period than is contemplated by the proposed measure. Much need not be said on this, as we have had the assurance of the Honourable Member in charge of the bill that this matter will be threshed out in the select committee. How far can this bill be extended? Till what period should this bill, when it becomes an Act, remain in force ? To that, the answer is very plainly given by the speeches delivered by honourable members in the old Council of 1918. The honourable member, Mr. Purshotamdas Thakurdas, my friend here, the Honourable Mr. Cadell, and many other members speaking at that time very clearly said that, so long as building operations on a very large scale were not carried out, it would do no good to abolish the Act. Sir, the Honourable Member in charge whilst replying to a question put by my honourable friend Mr. Bole last July said :

"None of the chawls being constructed by the Development Directorate has yet been completed. The work done to date is equivalent to the construction of 19 complete chawls, etc."

I admit, Sir, that the work by the Development Department is indeed going on at a very satisfactory speed. Certainly everybody would wish that it would go on at a greater speed still, but there is no doubt that it is going on at a very satisfactory speed. But, as the Honourable Member in charge himself, admits, these operations have not yet been completed, and so long as we cannot properly house the two lakhs and more of the labouring classes in Bombay, so long as we cannot properly house these poor people, it will be the duty of this House and of the Government to see that the period of the Rent Act is is extended to that period.

Two main principles out of the four, I shall touch upon. The first is with regard to the life of the Rent Act. Then, there is the question of the increase in rent. Let me again go back to the 1918 debate. At that time, the Honourable Mr. Phiroze Sethna definitely proved that the normal annual increase in rent between the years 1908-09 and 1917-18 was 2·712 per cent. (An Honourable Member : Every year ?) Yes ; Mr. Sethna definitely proved that. If we take that point into consideration, Sir, it will be clearly seen that the proposed increase of 33⅓ per cent. would be indeed too much. And, Sir, my honour-able friend Mr. Chunilal Mehta then moved an amendment that an annual increase of 5 per cent. should be given to the landlords for the period the Rent Act was in force. Now remember, Sir, that the Act was passed in 1918. The rents are counted as 10 per cent. over those of 1916, from the year 1918. If the Honourable Mr. Chunilal Mehta's amendment had been accepted then, the tenants would have had to pay to-day 30 per cent. over 1916. The

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Legislative Council then did not accept that amendment, which clearly shows that they were not prepared to grant in the year 1922, 30 per cent. increase, and the present proposal is 33⅓ per cent. increase. When that Council was not prepared to accept the Honourable Mr. Chunilal Mehta's amendment of 30 per cent. increase over 1916 rents in the year 1922, the proposal now is for an increase of 33⅓ per cent.

An Honourable Member: How could they have foreseen the circumstances which would prevail in 1922 or 1920 ?

Mr. KANJI DWARKADAS : My honourable friend Mr. Havelivala asks, how could they have foreseen the circumstances ? Well, Sir, it is to their credit indeed that they did foresee the circumstances. At that time, the building operations designed by the great imagination of the present Governor were not taken up. His Excellency came into power in 1918. After he took his office in 1918 he at once set his heart to this most pressing problem of the city and he took up this work of building operations by creating the Development Department, and those operations, as I have just now said, have not yet been completed, and therefore the proposed increase of 33⅓ per cent. is, in my opinion, a bit too much. It is very, very much. Then, Sir, as the honourable mover of the bill has again left this quite an open question to be decided by the select committee, I shall not go into that question any more, except to say that the economic conditions this year, as has been so ably put by my honourable friend Mr. Addyman, are so bad indeed that it is impossible to raise rents of a particular nature, rents for example which come under Rs. 100 a month. Let me take an instance of a man who makes Rs. 100 a month. He would ordinarily be paying a rent of Rs. 25 to Rs. 35. Now, who in this House will tell me that that man is to-day saving or can save Rs. 10 or Rs. 15 a month to pay the increased rent ? All the money that he now makes, Sir, he spends to make the two ends meet,—in fact he spends more and he gets into debt,—and therefore, Sir, it is absolutely impossible for him to be able to meet the new demand of increased rent proposed by the present bill. I think I have said enough on this point and I shall now come to the report of the Rent Act Committee. Sir, that committee reported in 1921, when circumstances were much brighter, more cheerful, than they are now. But even then the majority report said, Sir, that "if all the present restrictions were removed the landlords would be placed in a position of advantage similar to that occupied by them before the Rent Acts were introduced and the conditions then produced would undoubtedly arise again.". The majority report tells us very clearly that it is absolutely necessary that the Rent Act should be extended. Then, Sir, with regard to the minute of dissent by Messrs. Petit, Brander, Mandlik and Lalji, I think the whole minute of dissent loses all its value when we look at one or two sentences in that minute. They say:

"It should be pointed out that in passing the first Rent Act a serious error was made in the Legislative Council which has told against landlords."

These gentlemen, Sir, never wanted the Rent Act. They think that the Rent Act of 1918 was a mistake and so their position is absolutely untenable, and I think this Council will not pay much heed to their remarks. So also my honourable friend Mr. Jehangir Petit whose absence we all regret very much here and who we all hope will soon return back with renewed vigour and health—he says "I have been always opposed to the introduction of the Rent Act and the principles underlying it." Well, while Government have accepted the principle of the Act here is a member of the committee who is even against that very principle. Now since Government have accepted the principle and in accord-

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ance with the wishes of the citizens of Bombay as voiced in the press have thought it fit to extend the rent Act for a further period, I think a graded scale might be inserted as the select committee thinks fit so that rents coming under Rs. 200 or Rs. 150 might not be given any further increase at all.

Dr. S. S. BATLIWALA (Bombay City, North): Sir, I rise to support the first reading of this bill, not that I entirely agree with all the points made in this bill but because I believe some amendments in the present Act are necessary. No doubt, Sir, when the Act was introduced it was introduced as a temporary measure designed to protect the community as a whole against persons who were profiteers and monopolists. But, Sir, that function has been admirably performed by the Act. The question now before us is whether that state of things still exists or exists in modified conditions. If it does exist in modified conditions then it is our bounden duty to see that the Rent Act is modified. It is for that reason, Sir, that I support the first reading of this bill. Sir, according to my view the properties in the city of Bombay can be divided into four classes or sections. Firstly, properties for office accommodation. Secondly, those which are rented for shops. Thirdly, all those properties which are used as better class dwelling houses; and, fourthly, all those properties inhabited by the lower middle classes and poorer classes. If we take into consideration the properties under these four heads, perhaps we will be able to come to some conclusion on the differences that arise between the landlords and the tenants. As has been said by the Honourable Member in charge of the bill the offices are going abegging in Bombay. There is no doubt, Sir, that vacant office accommodations are plenty and they are not replaced. There is no doubt at the same time that there is slight slump in the trade, but that must not induce us to say that that state of things is going to last long. But that is no reason why, I ask, such office premises which are capable of fetching increased rents should be restrained by the Rent Act.

Then, I come to those classes of premises which are called petty shops. Now there is a difference of opinion in this Council as well as outside that these petty shopkeepers ought not to be burdened with additional increase of rent under the Rent Act, or in other words that they should be protected and should not be made to pay additional rent as has been done in England. But, Sir, I do not think that even the petty shopkeepers deserve our sympathy. I do think that we have not as yet passed the conditions when these shopkeepers are asking people to pay high prices for the commodities that they sell. Of course if the idea is that if the rents of these shops are increased they will charge still higher prices to the poorer classes, then I have nothing to say against it. But everyone of us will admit that in the case of these shopkeepers also we have to be guided by the golden rule of supply and demand. If the shopkeeper class insists on profiteering over the necessities of life notwithstanding the fact that there is no dearth of the supply of those necessities in Bombay at the present time, then it must be admitted that they are at the bottom of the high cost of living, and if that is true, then there is no reason to sympathise with these shopkeepers or dealers. There may be some justification for small traders to attempt profiteering, but at the same time I cannot agree personally speaking that these shopkeepers who are profiteering at the expense of the poorer classes ought to be protected by the Rent Act. I hope, therefore, that the Honourable Member in charge will please see that the business premises of these shopkeepers who have been earning large sums of money by profiteering do not come under the protection offered by the Rent Act.

[Dr. S. S. Batliwala]

Then, the third class that I referred to above are the wealthy people who claim the better class premises. To be sure, Sir, nobody can deny that at present the better class houses are not available, and that that is to some extent due to the existence of the Rent Act. There is no denying the fact that even the better class dwellings are being occupied at low rents and in some cases the landlords cannot demand even the standard rent. That clearly shows, Sir, that even supposing they have a little difficulty in finding good houses at cheaper rates, the sympathy of this Council should not be extended to these wealthy classes who can afford to pay high rents. I hope therefore the Council will see that the better class of people are not protected as regards the provision of houses, because they can very well amply provide for themselves. I know a case where millowners and people who earn thousands of rupees have taken advantage of the residences for some paltry sums like 100 rupees and even when they were asked to pay a small increased rent of Rs. 30 they did not hesitate to fling the Rent Act at the face of the landlords. Under these circumstances I ask this House whether it will be fair on the part of this House to protect these wealthy people of Bombay. I hope therefore that you will not support that provision and therefore you will see that these wealthy classes are kept out of this Act.

The fourth and the last class is the lower middle class dwelling houses. I must say, Sir, that if there is any calamity, if there is any real grievance that is existing in Bombay, it is not with the poorest of the poor but it is with the poor and the lower middle classes that are suffering the pinch to the utmost. I will give you my reasons when I say that. The poorest of the poor being wage-earners have got an increase in their earnings by 100 per cent. and even by 200 per cent. But so far as the lower middle classes are concerned they have got an increase only upto 20 per cent. in several offices and now on account of the slump they have been threatened with a loss of even these increased salaries. Retrenchment, Sir, is everywhere and not only in Government offices. So it is not fit that these classes should be made to suffer by increase of rent. They have been already suffering the pinch and they cannot make the two ends meet because their income is not adequate as compared with that of the poorest classes who have got, on account of the increase of their wages, an increase of 100 per cent. or as compared with the richer classes who can afford to pay higher rents. So, if any sympathy is to be extended by this House, it is my prayer to the Council that it should be extended towards these middle classes and it is they who need our support.

Then, I have got one more ground to urge and that is according to the census figures we find that there are about 80 per cent. one-room tenements in Bombay as against 20 per cent. of more than one-room tenements. So, if you give protection to the lower classes, *i.e.*, 80 per cent. of the population which is poor, there remains only 20 per cent. of the richer classes which could be safely left without protection of the Rent Act. I must admit that it is a very difficult problem. But if under the plea of extending your relief to the masses, you also give protection to the classes you are depriving the house-owners of their legitimate income not only for providing the poor classes but also the rich.

Sir, if these points are taken into consideration, I am sure the House would come to a fair decision on this question. I beg to suggest to the select committee which I hope will be appointed that the increase of 23⅓ per cent. on the present Act as proposed in the bill or any other per cent. that may be decided on by the

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select committee, be allowed on these 80 per cent. houses, by compartments. I will make myself clear. This 23⅓ should be spread over in equal proportion for five or three years respectively whichever period the select committee comes to recommend and the Council accepts. Let the proportionate increases be thus given on those houses which are occupied by the poorer classes or say, those houses with a rental of Rs. 100 per month or less be allowed an increase of five per cent. every year. Thus, if you fix 25 per cent. and fix the period of the Act for five years, the rate of increase in rent per year might be fixed at 5 per cent. As regards the other 20 per cent. of the tenants who could well afford to attend to their own wants and do not feel the pinch as keenly as the poor classes, they may be safely excluded from the protection of the Rent Act, or in other words they may be placed in the same class as of new houses. I think I have made myself clear. I say that a certain percentage of increase in rent is absolutely necessary and I have given my reasons for the same.

*After recess.*

The Honourable the PRESIDENT: Order, order.

Dr. S. S. BATLIWALA: Sir, I was saying that all these poor classes who are paying rents, say, up to Rs. 100 might be protected under the Rent Act, and an increase of rent might be allowed every year in equal proportion up to say, 30 per cent. Thus if the period of the Rent Act be fixed for 3 years, it should be 10 per cent. increase every year and if the period be fixed for five years, it might be six per cent per annum.

Then, Sir, as regards the proposed increase of 33⅓ per cent. there is a feeling among the tenants that it should not be allowed because the house-owners are as a class very rich people. It has been pointed out in one of the dissenting minutes of the Rent Committee that all the house-owners as a class are not rich people. About fifty per cent. of them are poorer classes. It is said that out of 16,000 landlords or house-owners, about 7,900 belong to that class which do not pay individually an assessment to the municipality of more than Rs. 30 per annum, that is, having an income of not more than Rs. 300 per year. If these classes are called rich, then I do not know who are called poor classes. It is these poor classes who could not afford to repair their houses from their slender income. If they are not given any increase I submit they cannot afford to repair their houses. The prices have gone up, and labourers are charging 200 to 300 per cent. more wages, and it would be a cruelty to these poorer classes not to allow them to increase their rents when large numbers of them cannot afford to meet the extraordinary charges that come upon them in these days of high prices. We find from the *Labour Gazette* that the prices of of the necessaries of life have gone up by 70 per cent. and these poorer classes of house-owners have to pay these increased charges. Why should we put the landlords who are made of the same texture as yourself at a disadvantage and tell them "Never mind, you suffer this 70 per cent. loss and in addition to that, you must give to your tenants extra charges for repairs, etc." We have to go to the rescue of those who deserve the most and at the same time not do injustice to the others. It is against the dictates of British justice and freedom that we should lay our hands on the landlords because they are supposed to be rich, while as a matter of fact they are not.

Then, Sir, my honourable friend Mr. Kanji Dwarkadas said that when the present Act was discussed it was stated by the honourable member Mr. Sethna

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that there was an average rise in the income from the landed property of 2½ per cent. and my honourable friend Mr. Chunilal Mehta said that it was 5 per cent. Supposing we take the lower figure of Mr. Sethna, I ask my honourable friend Mr. Kanji Dwarkadas, do the same conditions that existed when they framed the law exist now? Are we not in a position to see that prices of all materials have increased? I am sure that having regard to the increase in the cost of materials, increase in the cost of living and increase in so many other directions, which affect the landlords, my honourable friend Mr. Kanji Dwarkadas will not grudge extending to the landlords by a 10 per cent. rise every year, a 30 per cent. increase in three years.

Sir, I would not take up the time of the Council by saying anything on the other clauses which have been inserted in the present bill, but I would only mention by way of suggestion to the select committee that it might be so provided that the tenants might be allowed to sub-let if they do not profiteer.

The Honourable Sir CHIMANLAL SETALVAD: It is very difficult to find out.

Dr. S. S. BATLIWALA: (The honourable member was for a time inaudible) It is with the object of coming to the rescue of these lower middle classes who do not get sufficient accommodation on account of one-room tenements only being built by the Development Department, the Improvement Trust and other bodies. It is to meet that, that some provision should be made to allow sub-letting to tenants who do not profiteer. It might be decided in the select committee. I shall now only say one word about charitable organisations about which the Honourable Member in charge has promised to look into in the select committee. There is no doubt that these charitable organisations, about which a lot has been said and petitions have been sent to the Council, do require relief and I hope that the Honourable the General Member will look into the question in the select committee. With these words, I beg to support the first reading of the bill.

Mr. S. K. BOLE (Bombay City, North): Mr. President, the question before us is no doubt a very complicated one and requires to be considered from all points of view. The Bombay Improvement Trust has no doubt done some good things but it is responsible to some extent for the scarcity of houses in the city of Bombay. It carried on in its early life wholesale demolition of houses without providing sufficient chawls for rehousing the people that were dishoused by their schemes.

In the Parel area it will be found that many palatial buildings have been erected on the ruins of chawls that were inhabited by workmen who have to go and herd together in the slum area which was already over-congested. Besides, Sir, it is the Improvement Trust which has commenced profiteering by selling their plots to the highest bidders.....

The Honourable the PRESIDENT: May I beg to enquire how that is relevant to the bill before the House?

Mr. S. K. BOLE: I am just going to show.....

The Honourable the PRESIDENT: I take your assurance that you are going to illustrate by an example bearing some relation to the point.

Mr. S. K. BOLE: When the merchant class made large profits during the war, they knew not what to do with their money and carried on speculation

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in land, paid fancy prices and ultimately they had to charge increased rents enough to make their investments profitable. That has raised the prices of land and prices of materials.

There is another point to be considered. There are big employers in the city of Bombay, namely, the Government, the Municipality, the Port Trust, the Improvement Trust, the Railways, the millowners and factory-owners. All of them have done very little or nothing to house their respective employees. Government have not built chawls for their clerks or menial staff; the municipality of course have built some chawls for their menial staff such as halalkhors, but nothing has been done for their clerks, peons and others. That is the case with all the other bodies, the Port Trust and the Improvement Trust, and the millowners and factory-owners.....

The Honourable the PRESIDENT: For five minutes now I think the honourable member has been wandering away from the relevant points. The bill is brought in because the evil about house accommodation is there and has been admitted on all hands. Whoever is responsible for that, the question of finding fault with him and punishing him and so on will require a separate bill to be brought before this Council. The evil is admitted by every one and now the question is whether the bill as brought before the House should be passed or not.

Mr. S. K. BOLE: I am just going to say one word about the duration of the Act and that the existing Act should run on for more than a year—for at least two years.....

The Honourable the PRESIDENT: How does this question of failure on the part of those bodies to provide house accommodation arise? The evil is there. You may say the evil is likely to continue for some years. The honourable member from Thana (Mr. Trivedi) set a very excellent example; he dealt with the point in a relevant manner. I never interfered with him. Will the honourable member now addressing kindly follow his example?

Mr. S. K. BOLE: I was just going to say that these big employers should make suitable provision for their employees and that if they had done so, the necessity for this bill would not have arisen.....

The Honourable the PRESIDENT: Unfortunately, the necessity has arisen now somehow. Let us not go back to the causes of that necessity.

Mr. S. K. BOLE: The remedy, namely, to build more chawls ought to have been adopted. We are grateful, to His Excellency the Governor for making a provision in the development scheme for building 50,000 tenements....

The Honourable the PRESIDENT: That I think is irrelevant.

Mr. S. K. BOLE: That will relieve the congestion considerably.....

The Honourable the PRESIDENT: Everybody admits the congestion; the question is whether the bill before the House is the proper remedy and should pass the first reading.

Mr. S. K. BOLE: Till that scheme is completed, I submit, Sir, some sort of relief will be required for these men and so I say that in the case of poor workmen who are paying monthly rent up to Rs. 5 should be exempted from this Act. They should not be made to pay anything more than the present increase allowed by the Act. So also the chawls built by the Improvement Trust, by the municipality and all other employers for their workmen should be exempted from the operation of the bill before the Council.

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As regards the points raised by my honourable friend Dr. Batliwala, I submit that there is another side of the question and that is, there are a good many poor landlords in whose case the term "landlord" is a misnomer; they are petty house-owners and their case should also be considered in the select committee. Sir, Government have done nothing for controlling and restricting profiteering in trades and business. They have done nothing also to restrict the rates of interest charged by money-lenders. Under those circumstances, the petty house-owners and poor widows who have to maintain themselves on their petty incomes ought to be given some increase, but what that increase should be left to the consideration of the select committee. I think in that case an increase of ten per cent. more, not 33 ⅓ per cent., should be given, but that is a matter of detail.

As regards the point of repairs that was referred to by Dr. Batliwala, I can assure him that the chawls and premises inhabited by workmen are already in damaged condition. Those who have visited those chawls will bear me out. These workmen have to go out to work early and come very late and have practically no time to damage their premises—it is not those classes, but the higher classes that may be making any damage to their residential premises and so that argument does not stand.

As regards sub-letting, that of course should not be allowed; the workmen never take advantage of the clause of sub-letting. Advantage was evidently taken by those rich tenants who were occupying big flats and going to Mahableshwar and Matheran and other hill stations, sub-letting their flats and thus profiteering, but in the case of poor persons very few cases will be found amongst workmen classes who have done so. Under those circumstances I think sub-letting should be prohibited. With these words, I would support the first reading of the bill with some modifications.

Mr. M. A. HAVELIVALA (Bombay City): Mr. President, I rise to support the first reading of the bill, which affects the whole city of Bombay. The problem is such a complex one that it will take our best efforts to solve it. The conflict is between the landlords and tenants, and the interests of the landlords are diametrically opposed to those of the tenants. In view of that conflict, we ought to find a *via media* and lay down what is proper both in the interests of the tenants as well as in the interests of the landlords.

After listening to the speech of the Honourable Member in charge of the bill.....

The Honourable the PRESIDENT: I hope honourable members will take care hereafter to raise their voices; otherwise, their speeches will be inaudible and go unreported.

Mr. M. A. HAVELIVALA: The Honourable Member in charge of the bill has given us a full and detailed survey of the operations of the two Acts which this bill proposes to amend and as that is going to be referred to the select committee, I do not wish to dwell at length on the various points raised in the bill and take up the time of the Council any longer. But, Sir, I wish to emphasise one point, and that is with regard to the life of the proposed bill. Some of the speeches that have been made are not quite clear whether the life of this bill is going to be extended to two years or more. I wish to make it clear that while accepting the principle of this bill, the time by which rent control will be extended should be two years and not more. Coming to the point, I wish to say that most of the public investing in landed property is

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anxiously waiting to know what we are going to do about the Rent Control Bill. In some quarters it has been suggested that the life of the bill ought to be extended to five years, or even more than that. If that situation is going to last, I think the building operations in the city of Bombay will come to a standstill, and most of the investing public who wish to put their money in buildings will not do so owing to the uncertainty of rent operations in the city of Bombay. So, I think we ought to make it clear that the bill is going to last for two years and no more.

Then there is another point, and that is with regard to the increase that should be given to the landlords. So far as I can see from the speeches, there is absolute unanimity of opinion that some sort of increase ought to be given to the landlords. What that increase should be will be discussed in the select committee. When the report of the select committee is before the Council, I am sure that an appropriate increase will be given to the landlords.

Then I wish to emphasise the point that was made by Dr. Dadachanji and my honourable friend opposite that the passing of this bill will not solve the housing problem in the city of Bombay once for all. If we are going to solve this problem we should encourage the investing public to put their money on buildings, and not put obstructions in their way. This point will be quite clearly borne in mind by my honourable friends, and that can only be done at present by making it quite clear that the bill, in so far as it is intended to give protection to the tenants, will be only for two years and no more.

Mr. PURSHOTAMDAS THAKURDAS: Mr. President, I rise to support the first reading of the bill not because I agree with all the provisions in the bill, but chiefly and mainly because, I think it is necessary to amend an Act of this kind which was passed in 1918, in the light of experience gained by the working of the Act.

The Rent Acts, known as Acts Nos. II and VII of 1918, were the first effort made by Government at interference with private proprietary rights. On account of the conditons that were brought about by the War, perhaps some notes of caution that were then sounded were overlooked and the interference with private proprietary rights was carried through in great hurry. Under the Defence of India Act, small tenants paying rents under Rs. 10 were covered, and, as far as my memory goes, there was hardly any grumbling at the protection given to the occupiers of these small premises. Subsequently, all properties in Bombay were covered by Act No. II of 1918; that Act was again modified by Act No. VII of the same year. I would like to tell this Council how these two enactments have affected the relations between tenants and landlords in Bombay so far, and I would like to tell them my view of the result of the working of these two Acts.

To begin with, the quasi-proprietorship rights that were created in tenants by Acts Nos. II and VII of 1918 strained the normal, satisfactory relations between tenants and landlords in Bombay to a pitch that could not have been done by any other enactment. The tenants found that, under the protection of these two Acts, they were the masters of the situation, and the landlords found that whilst they owned property they were not masters in their own houses. Paragraph 13 of the report of the committee appointed by Government distinctly says that the proprietorship rights of the tenants that were created by the Rent Act did disturb the relations of the tenants and landlords, and all the intelligence at the command of either the tenant class or the landlord class was used in order to interpret the law as it suited each party, or in order

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to get round the best intentions of the law. Expert legal advice was sought and employed in order to assert the rights of each party. Disgraceful cases have happened, where landlord and tenant sought to attack each other unjustifiably, and appeared before court. Cases of an extremely mad behaviour are known. No doubt, there have been also good tenants and good landlords. As soon as the Rent Act came into force, the bitterness that had existed before found an outlet. I was informed that the moment the present bill was passed, 45 to 50 per cent. of the tenant class would have to quit, not because higher rents would be demanded of them but because the relations were so very strained between the landlords and tenants. The Honourable Member in charge of the bill knows, from his experience when he adorned the bench of the High Court, how people on both sides resorted to courts of law in order to assert their rights; and he had none other than rent suits to dispose of. All this has taken place from 1919 up to now. My chief aim is to point out to the Council that Act II has created a vicious circle, and that it is necessary for this Council to find a way out. My honourable friend Dr. Dadachanji pointed out to the House that a well known landlord had told him, I understand, in the corporation, that he would not advice anybody to construct any more buildings so long as the Rent Act or anything of a like nature existed. If any change is made with regard to the rent, naturally the tenant class will complain, because it will hit them very hard. As was pointed out by one honourable member, people in Bombay derived much larger income than they ever did before, during 1919-20, and it is now having its reaction. Then, there was more of employment among the lower middle and upper middle classes, and the landlords now demand the increase in rent due to them for 1919-20. The Government have submitted the bill to the House, and it is for the House to decide, rather for the select committee, as to how this demand is to be met. I cannot help feeling that the time is most inopportune for asking for any increase in rent which was under control when Bombay was said to be rolling in riches. I should like the House to see what conditions have prevailed since the Rent Act was passed. The value of landed property was stationary before the first Rent Act was passed. As there was an arbitrary check put on the return from landed property, the value of landed property ought to have depreciated. If it had been so, I have not the least doubt that the Government would have come to the House much earlier, without a committee saying that the Rent Act of 1919 had affected very prejudicially the interests of landed proprietors and their properties, and therefore they should either modify or withdraw the Act. On the other hand, what do we find ? The value of lands which were controlled went up to such a height, that so far as I can remember there was no parallel to it. Properties which were before 1916 worth two lakhs were sold for five lakhs, six lakhs and seven lakhs. There were other properties, which were offered a much higher rate, but the owners would not sell. This is a fact which I would like anybody in the House to challenge. In fact, Government themselves were very nervous, at what was called speculation in Bombay. Naturally everything that flies so high must have a reaction and come down and now the value of landed property is considerably lower than the high pitch to which it went since the Rent Act of 1918, irrespective of any return on the capital invested. I should like some landlords to point out to me where comes the basis for an increase by percentage return. If properties in Bombay were sold at prices in proportion to the return, I would certainly look into half a dozen or a dozen sales, and find out the basis on which the percentage of increase is

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to be fixed. I am quite sure that I shall be told that that was the way of speculation, which need not be taken cognisance of by this House. I ask then what is the basis on which people invest in landed property in Bombay. Let there be some basis approved, and then the House will be in a much better position to give an increase to the landlords. It is not at all an incorrect inference to make that the greater the control, the higher the prices. To all those landlords who come to this House with petitions and ask for justice, this House can justifiably ask, "What is the basis of return on which you fix the valuation of property in Bombay?" The bill under the consideration of this House is mainly concerned with three salient points. The first is the period of the existing Acts. This period of the existing Acts expires next year. The committee that sat in connection with this have reported in paragraph 7 and 8 of their report as under:

"During the last two years a good beginning has been made in this connection but there is still much more to be done, and we consider that theRent Acts should be retained to provide necessary and temporary relief until the return of more normal conditions."

That is the last sentence of paragraph 7. In paragraph 8 their conclusion reads thus:

"We consider that the period for the Rent Acts might be extended till the end of the financial year, that is to say, till the 31st March 1924."

This means that they expected normal conditions to return, or more normal conditions to return on or about the 31st March 1924. I wish that the same committee had explained a little more in detail what made them conclude that more normal conditions than what existed in 1921 would prevail in March 1924. I do not think it will do to say that prices may come down. If Government wish to fix the life of the existing two Acts at March 1924, I think this House would like something more definite than the mere recommendation of the committee. The unfortunate part of that committee's report is that it is nothing more than a mere expression of opinion. It is nothing else. My own feeling, Sir, is that more normal conditions, as far as housing in Bombay is concerned, will not be available either in 1924 or in 1925. They can only be available when there are real genuine efforts made by the Government—and I will later on explain why I say by the Government—at getting people to stay in the suburbs: and people will go and stay in the suburbs, but they want fast communications and arrangements for that purpose in the shape of more trains and more tramway facilities. (An honourable member: Cheaper tranpsport) I did not suggest that, because I think cheaper transport is not the best form of putting it. I have not the least doubt that what is being done by the Development Department in this direction may be very valuable, but I submit that the problem that is sought to be solved is so difficult that no mere extending of the Rent Acts will meet the situation and if the step which was taken in 1918, owing to the existence of the war, in the shape of control of properties, is to be carried to a justifiable and logical conclusion and if the actions of this Council are to be logical, the sooner steps are taken in this direction of getting people to go out to the suburbs, where they will have healthier, cheaper and better accommodation, the better. I cannot help feeling that until that is done, whenever the Rent Act is removed, the conditions of the middle, lower middle and upper middle classes in Bombay would be such as to make the tenant class regret the period that they had between the year 1918 when the Rent Act was passed, and the year when the Act was removed. I do not think, Sir, that this is an opportune time when to say more regarding the activities

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of the Government in connection with the development of the suburbs or provision of faster and cheaper transport. But I do wish to point out that any effort at slackening the Rent Acts will work very hard on the tenant class, because by starting this control over rents Government have disturbed the natural flow of things and have given rise to such strained feelings between the landlords and the tenants that nothing will restore those feelings which existed before the war.

The next point is regarding the rent. These two Acts of 1918 give a 10 per cent. increase on the rent that prevailed in 1916. Naturally, the landlord class—seeing the prosperity of everything else except landed property in Bombay—have felt, as honourable members must have seen from newspapers and petitions submitted to the Council, that they have been dealt with very harshly and as an exception. I really wonder if the select committee would ever be able to come to a definite conclusion as to what further increase should be given to the landlords, and justify it with facts and figures to the satisfaction of impartial observers. I am afraid the select committee will have to put down at random some sort of figure for the increase, and the Council will have to accept it if they are disposed to give any increase in the rents to the landlords. But in some letters that I have seen where the landlord class ask for " justice and nothing else than justice", I was very much amused when they recommended that tenements with a rent of Rs. 30 might be kept under control—the figure was from Rs. 30 to Rs. 100—and those who owned tenements above that rent might be freed from control as proposed by this bill. Surely, if you control tenements up to a certain point, say Rs. 30 or Rs. 50, and let others off, it only comes to this, that the larger number of the poorer classes shall be under a greater handicap than the persons who are comparatively better off. That is the last method by which to pave the way for the repeal of the Rent Act. I have failed to follow either the logic or the reasonableness of those who contend that smaller tenements may be given more protection and the others less. It may be all right as far as the tenant class is concerned. But what about the people who provide them with those tenements ? For, after all, the aim and object of this Council should be to control tenements and rents in Bombay not for ever, but up to a period and their object should further be that that period be as short as possible. If the House is agreed on that aim and object in the matter of this legislation, then they ought to devise something by which more tenements could be put up for the poor and middle classes, the welfare of which is the solicitude of this House. And as several honourable members who have spoken before me in this House seem to have expressed very great solicitude for the people paying rents upto Rs. 30, 50 and 100, I put it to them whether it is a right way of setting about to say that people who have catered for the poorer tenements should be at a disadvantage. This is one of the considerations on which the Council in 1918 said " treat all tenants alike ". It is quite possible that there may be other grounds hereafter which may appeal to this House, but from what I have heard up till now I fail to perceive how you can more or less distinguish between one class of landlords from any other. It is further suggested that business premises should be relieved of control. I feel, Sir, that the honourable members who talked of business premises for this recommendation must have had in their minds the Ballard Estate in the Fort of Bombay where some fine buildings have been put up since 1918 and which to day are going more or less a-begging for rent. It is quite

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true that there is a greater supply in the Fort area for business offices on the Ballard Estate of the Port Trust. There is less demand for it, and naturally rents have gone down for office premises in the Fort area. But if the suggestion made by honourable members who spoke in favour of this recommendation was with reference only to the Fort area of Bombay for business premises, one could understand it. The business premises however would include shops and small offices in Shaikh Memon Street, in Mumba Devi and Pydhownie and so on, and there I have not heard yet that there is a single vacancy or a single tenement,either residential or office or business tenement,which is going a begging for tenants. I therefore venture to submit that the problem is not as easy as may be inferred by honourable members from what has been said till now regarding business premises. The profiteering by the merchant class and by the commercial class in 1918, 1919 and 1920 is not denied. Now that point was urged with very great emphasis before the Council of 1918. But that Council could not arrive at any solution of that problem, and said we will pass the enactment for the greatest good of the largest number. I should still be very glad if the select committee could find a way out of it, which would disturb the conditions as little as possible and the great point is, is it worth while for this House to enact a change ? The third main point in the bill, Sir, is the question of sub-tenants. I was the first who pressed in 1918 when the two acts were before the Council that that enactment should not allow tenants to put in sub-tenants in their places without the consent of the landlord. Unfortunately then I was perhaps the only one or was in a small minority before that House. It is my proud privilege therefore to be able to say that I anticipated all the difficulties that have now been put before the committee that has submitted this report to the House and that has been endorsed by the Honourable Member in charge of this bill. I feel that nothing has created more bitterness between the tenant and the landlord than this privilege unjustifiably given to the tenant class to shelve on to the premises of the landlord anybody and everybody that the tenant chooses irrespective of whether he is acceptable to the landlord or not. I have not the least doubt that the proposed remedy for this handicap to the landlord class, as pointed by the uniform recommendation of the committee appointed by the Government would have the approval of this House. I feel, Sir, that the problem as presented to this House not only by the report that has been before the House but also by the various views expressed in the press and by way of petitions presented to this House is a very complex one. It is not a question of giving relief to a landlord here and a tenant there. It is a question of providing for the growing population of Bombay something which will not require any sort of artificial interference from the legislature. Personally I am afraid that time is not yet ripe to consider when the legislature could safely withdraw the protection from the tenant class. I am extremely diffident as regards the year 1924 or 1925. In this connection what I feel is that as Government has taken up the housing question and as Government have raised and have taken up the question of the development of the suburbs it is up to Government now to push on with that in a manner which will soon make the cheapest possible residential quarters available to the people. All the necessity of rent control will then disappear more or less automatically. Until then anything that is sought to be done by these two rent controlling Acts will have to be done with the utmost caution. There is just one more thing that I would like to refer to. Government are asked to be landlords

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themselves. They are beginning to own large blocks of residential quarters. I am not aware as to what blocks are in occupation yet and what number of chawls will be actually in their occupation in the future. These chawls will naturally cost Government considerably more than the private owner, who built chawls in 1916, 1917 and 1918. There is a shrewd suspicion in the minds of some—I do not endorse the suspicion—I only mention it to the House with a view that the Honourable Member in charge of this bill may like to give some sort of information that as Government are increasingly becoming landlords in Bombay they are beginning to see where the shoe pinches and now are in favour of putting up the rentals available to the landlord class of Bombay very substantially. As I said I do not believe that this could be behind the mind of the Honourable Member in charge when he drafted or presented this bill to the House. But I think it is only fair to him to mention to him what has been mentioned to me in order that he may be able to explain to the House the basis on which the new chawls, the new tenements that are being put up by the Development Department and which are going to be built are to be rented; for the honourable member who began this discussion had told this House that the City Improvement Trust is in the eyes of several honourable members a profiteer to the extent which is not available to the owners of the properties. I therefore feel that the 33⅓ per cent. increase that has been put forward by the Government in this bill requires to be explained rather at fuller length.

If, after all, the figures given by the Honourable Mr. Sethna to the Council in 1918 are correct, namely that the normal increase in rents in Bombay did not exceed 2·7 per cent. and if the Council in 1918 agreed only to a 10 per cent. increase, which is still in vogue, in 1922 to go from 10 to 33 per cent. as suggested by the Government is rather a big jump, especially when the economic conditions in Bombay are what they are today.

With these remarks, Sir, I beg to give my support to the first reading of the bill, in the hope that the select committee will go into the various points I have put forward in this speech.

Rao Saheb D. P. DESAI (Kaira District): Sir, I am one of those who believe in freedom of contract and who think that it is not the duty of the State to interfere in the relations between landlords and tenants. But unfortunately the peculiar conditions of Bombay, for which neither the landlords nor the tenants are responsible, makes it incumbent on us to see that some control is exercised over the ordinary laws of contract and of supply and demand. The Honourable the General Member, however, while agreeing to this has come forward with too much increase to the landlords. I think, Sir, that in 1916 there was an increase of 10 per cent. given to all the landlords and that 10 per cent. included the amount for repairing as well as for a natural increase in the rents. At that time it was agreed that it was the duty of the landlords to do ordinary repairs to the buildings during the time this Act was in operation, but the landlords have failed to carry out their duty of repairing the buildings. We have been hearing complaints, and those complaints are not few, that the houses are kept in a very bad state of repair, and that the roofs of the tenements are at places leaky. If the proposal of the 33⅓ per cent. increase that the Honourable the General Member has made is not to go to remedy this state of affairs, I am sorry that this 33⅓ per cent. should have to be largely curtailed, and so we must request the Honourable the General Member to see if he cannot bring these landlords under some sort of control so that they may carry out their part of the duty. My honourable friend Dr. Batliwala has

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made a distinction between residential buildings and other buildings. He says that the office premises do not deserve any protection. I think, Sir, they are the first to deserve our protection. In Bombay three-fourths of the people are dependent upon these middlemen. Any increase in their office rents therefore would have to be borne either by the producer or the consumer, as the case may be, as these people will not give the rent from their own pockets: they will pass it on to the consumer or producer. I should, therefore, think that neither office premises nor shop premises, whether old or new, should be subject to any increase in rents. I think these rents should remain where they are, and no shop-keeper or middleman should have the rent of his dwelling place or office premises increased to any appreciable extent. My honourable friend Dr. Batliwala has stated.....

The Honourable the PRESIDENT: I must now rule that from henceforth no honourable member should mention another honourable member by name, but he should be referred to as the member for his constituency. It is only the Chair that has the right to call members by their names when they catch the eye of the Chair and rise to speak.

Mr. C. M. GANDHI: There is a difficulty, Sir.

The Honourable the PRESIDENT: There is no difficulty whatever. That is my ruling. I hope there will be no debate upon it. It is all very easy if honourable members will take care to practise it.

Rao Saheb D. P. DESAI: My honourable friend from Bombay said that the richer class tenants should not be protected. If they are really rich tenants, then I do not see why they should not give an increase of 33⅓ per cent. for their dwellings as is proposed by the Honourable the General Member. But for the dwellings of the poorer classes, I regret to observe that the scale proposed by the Honourable the General Member is more liberal than the proposals made by the landlords themselves. The landlords in their petition were willing to leave people alone who were paying Rs. 100 and less. But the Honourable the General Member has not exempted them from the operations of this bill. I should think that in the select committee this point should be considered and there should be no increase made in the case of the dwellers who pay about Rs. 100 and less in rent as stated by the landlords themselves in their petition.

As regards the cases of outgoing tenants demanding a kind of cash premium from the incoming tenants of the shops or dwelling premises, I think some control should be placed on that practice, only for the future, for it would be hard on the present sub-tenants who have already paid large premia.

Lastly, my honourable friend from Bombay stated that Sir Dinshaw Petit had stated in public that owing to this Rent Act, he was not going to build any new houses. I think that argument is an absolutely hollow one as the present bill does not affect new premises to be built. These appear to have been specially exempted in the bill. With these remarks, I resume my seat accepting the principle of the bill before us.

Mr. IBRAHIM S. HAJI (Bombay City): I confess, Sir, that I am rather in a fix and a puzzle as regards the bill presented by the Honourable the General Member.....

The Honourable the PRESIDENT: Will you kindly raise your voice so as to be audible to the official reporter?

Mr. IBRAHIM S. HAJI: The official reporter ought to come and sit here, (pointing to the centre of the hall).

The Honourable the PRESIDENT: It is not for the honourable member to say where the official reporter should sit. The honourable member knows the rule that no strangers can be allowed within the precincts of the Council, and if I allow official reporters there, that will be not only contrary to the example set by all other legislatures but it will embarrass me and my successors in future.

Mr. IBRAHIM S. HAJI: The bill as presented to us by the Honourable Member in charge is more pro-landlord than the speech delivered in support of the bill by the Honourable Member in charge when introducing it to the Council would lead one to believe. I was surprised to see that there was no change in the attitude of the Honourable Member since his exaltation from a seat on the High Court Bench to the membership of the Executive Council. When the present Act was enacted much was said in favour of it, namely that it was intended to afford protection to tenants against the profiteering tendency of landlords, but in the actual working of the Act in the city of Bombay, all that ultimately proved to be otherwise. When the Rent Act emerged from the hands of the Council in 1918, it was said that tenants should have adequate protection and a certain amount of security of tenancy. It was also said that the landlords should not be allowed to increase the rents as they would otherwise have done if the Act had not been passed, but the working of the Rent Act in the city of Bombay has been more detrimental to the tenants and more pleasing to the landlords. All the arguments of the stalwarts and saviours of tenants have proved nugatory by the decrees and the decisions of the High Court in the matter of ejectment. I was not at all surprised when I heard that this bill was to come from the hands of the Honourable the General Member and that if there was any amendment it would be in favour of the landlords, for the Honourable Member himself interpreted the working of the present Act in favour of landlords, because his judgment made the ejectment suits easy of success for the landlords, whereas the Rent Acts were enacted to restrict ejectment suits which were the order of the day. Ejectment has now become so very common and easy that the landlord has only to go from the Small Causes Court to the High Court and he can get the tenant ejected, and it is no cause for surprise at all that this bill makes no provision at all in spite of the fact that the committee to which the Honourable the General Member referred and which was appointed by the predecessor of this Council have suggested certain amendments. The present bill overlooks certain recommendations made by that committee on pages 6 and 7 specifying certain conditions which should be essential for ejection, for after all this is a legislation which is going to secure not only that the landlords should have inordinate and high increases—in fact as much as they would like to have—but also security or permanency of tenancy made possible under this bill. The present bill does not say a word about the conditions preceding order for ejectment. There is no provision at all and it does not mention that because the Honourable Member fails to realise the tenant's point of view, I hope he will, when he goes to the select committee, listen to his colleagues on the select committee and do what is right. Otherwise I do not see how this bill is likely to be of any help to the tenants.

The question arises whether this legislation which emanated as a war-time measure in 1918 should be continued beyond the due date. I beg to submit, Sir, that this legislation was a war-time legislation in the sense that it was

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intended to prevent the intrigues of landlords against their tenants. These two Rent Acts were not enacted in order to win the war or provide for the production of arms and munitions. These Acts were enacted to secure certain protection for tenants against profiteering on the part of landlords. They were enacted to protect tenants during the famine of houses. I beg to submit that this view should be kept in mind and must be considered from this standpoint, namely that it should be regarded as a permanent measure. I hope when the measure goes to the select committee, the preamble of this Act will be changed so as to make it in all respects satisfactory. The conditions in 1918, as you will find from the official reports of the Director of Labour Bureau, were that the cost of labour and material was much higher in 1918, but went up to the highest point in 1920, and we find today from the official reports that the prices are very much lower now both as regards cost of living and the materials with which buildings are built. The Honourable Member in charge of the bill says in the statement of objects and reasons that since the Acts were passed, prices have risen considerably. I fail to understand how the Government can blow hot and cold. One department of the Government says that prices have fallen, and another department comes forward, perhaps without consulting its experts, and tells us that the prices have risen. The Honourable Member in charge of the bill will have to justify this statement of his before asking the House to support the bill, and the sudden increase which he proposes to give to the landlords. I am aware that he has not himself said whether the increase is reasonable or not. I do wish he had made up his mind about it. However, he has agreed to leave it to the select committee as to what increase should be given, and that is creditable on his part.

With regard to the period for which the bill will be extended, the bill says that the period will be increased by one year; in other words, the Rent Act will be thrown overboard at the end of August 1924. I beg to submit that that is not sufficient. It may be sufficient in some cases; it may not be sufficient in certain other cases. If it is decided by this House to exclude certain premises from the control of the Act as laid down by the provisions in this bill, I beg to submit that this House must extend the control of the Act to premises and rents which affect the poorer and lower middle classes for a longer period than two years. Neither the Government nor the public have increased the housing accommodation in the city of Bombay up to now. Similar is the case with regard to the other places where these two Acts are in operation. We hear from all those parts of the Presidency where these Acts are in operation that there is demand for the continuance of this Act not for the period provided in the bill, but for a further period still. The city of Bombay, when this bill was published, rose with indignation to find that the Rent Act was to be dropped in two years' time. Similar is the feeling in Karachi, in Poona and in the district of Thana, and I can assure the House that the application of the Act is also demanded in other parts of the Presidency. The period of relief sought to be given by the bill is bound to be inadequate in the case of the tenants belonging to the poorer working classes.

The Honourable the PRESIDENT: Is that with reference to the honourable member's notice of amendment?

Mr. IBRAHIM S. HAJI: I am discussing that, Sir.

The Honourable the PRESIDENT: I have been looking into the existing Acts, and I find that they may be applied by Government to other parts of the

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Presidency by an order or regulation. I will say no more than that, but will leave it to the discretion of the chairman of the select committee for the present if the bill passes the first reading. My final ruling will be when and if the question comes at the time of the second reading.

Mr. IBRAHIM S. HAJI: The Honourable Member in charge of the bill, in introducing this bill, analysed it fully in such a way as to show that it would relieve four evils. But really the bill does nothing of the kind with respect to tenants.

In the first place, he has turned the entire aspect of the question, and turned the bill for the protection of the tenants into the Magna Charta of the landlords. This bill provides for an increase of rent all round by 33⅓ per cent. Is it to the interest of the tenants to pay this increase? The answer is absolutely in the negative. On this point the landlords score. Then we come to the question of the sub-letting. Sub-letting is to be prohibited by this bill, and how is it going to be done? It is going to be done by preventing the tenant from sub-letting without the permission of the landlord. We are told that this bill is going to be a just one, giving power to the landlord, so that the profiteering tenant shall not squeeze money at the expense of the landlord. I should like to ask the Honourable Member in charge of the bill how he is going to restrict the landlord from having the *mithai* or *pagdi* directly himself, if not through the medium of the tenant. If the bill allows sub-letting with the permission of the landlord, I am afraid the *mithai* or *pagdi* will be shared equally by the landlord and the tenant which was hitherto devoured by the tenant. I submit that the clause relating to sub-letting is so worded that it would lead to more litigation than is believed by the Honourable Member in charge.

Provision has been made in the bill for not giving the benefit of the Act to rent-farmers. The Honourable Member in charge is quite aware that rent farming has been going on in the city of Bombay to a large and systematic extent. But, according to the provisions of the bill, if *A* gets the lease of a building from the landlord for three years, he gets exemption under this Act, and for three years. *A* can throw the Act overboard and profiteer just as much as he likes. The present wording of the bill is absolutely unsatisfactory and would create doubts and would perhaps create a good deal of discretion in the powers of the Judges of the Small Causes Court or even the High Court. I beg to submit, Sir, that this clause, as it is, is not enough. What is wanted is an imitation of that clause which prohibits sub-letting in the English Acts. If a tenant has sub-let, the landlord can appeal to the court and get that sub-tenant directed to himself. But, after all, where is sub-letting going on to-day? Sub-letting, though it leads to overcrowding and congestion is indeed an economic relief. If this bill is going to stop sub-letting altogether, I am afraid that the present tenant of the poorer classes will have to pay per head more rent, and it would also cause the removal of the sub-tenants from the permanent holding which they occupy, either in the suburbs or anywhere else in the city of Bombay. It should therefore be carefully considered whether in certain parts of the city sub-letting should be allowed or not. I have already said that the provision in the bill about sub-letting will not affect the present landlords and sub-tenants but will affect the future sub-letting. At the same time this clause about sub-letting is not quite clear, because we are not certain whether it would stop present sub-letting. I hope the Honourable the General Member will see that this clause is made quite clear.

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Now, Sir, it is evident that the bill has been introduced in spite of strong protest against it by the tenant class. All their agitation has proved unsuccessful. The Honourable the General Member pointed out that the bill is on the lines of the English Act. If that is so, I hope he will see that the provisions which are absolutely essential in the interest of the tenants are embodied in the bill. The increased percentage given by the existing Acts for the high cost of repairs was quite right. But the landlords have played the trick till now by leaving their building without repairs in order to make it a means of ejecting the tenants. I beg to submit that this bill does not make it obligatory on the landlords to carry out the necessary repairs, as in the Act of the United Kingdom. Therefore, provision must be made in the bill giving the right to the tenants to recover the cost from the house-owners, if they carried out any repairs or cease paying increased rents. Unless this is done, the landlords will keep on their buildings without repairs, purposely to eject the tenants.

It was suggested by the Honourable Member in charge that, if they restricted new buildings also, landlords would not invest money in building houses, and the effect of this would be that it would increase the congestion in Bombay. After the passing of the Rent Act, numerous buildings have sprung up, and the rent that is demanded is so extremely high, that they are generally not occupied. Perhaps the landlords are waiting for the rainy day when there is no Rent Act and no restriction against their rapacity.

If the restriction is removed, it will put the tenant class to great hardship. Why should we not continue this restriction till the Development Department finishes its programme ?

The select committee to which this bill is going to be referred will have a very serious task to perform, because everything that is contained in the bill has to be considered. I hope the Honourable Member in charge of the bill will see that persons who have got a first-hand knowledge of the subject are put on the committee.

In short, I do neither want to be unjust to the landlords nor allow this Council to inflict any hardship on the poor tenants. Though justice is on the side of the landlords, yet expediency is on the side of the tenants. It is said that the greater part of the nation is not living in castles but in cottages. It is up to the Council to see that they do not lose even their cottages for the increased rents would drive them on to the pavements.

Before I conclude, I wish to point out the position of the Mahomedan landlords of Bombay. Most of the landlords (about 40 per cent.) are Mahomedans, and Mahomedans by force of their religion are not allowed to make profits by lending money, and so they invest their money in landed property. So a *via media* is necessarily to be found. While I consider that the 33⅓ per cent. is rather high, I feel that there should be no increase over rents under Rs. 100. I hope that this and other *via media* will be found which will be satisfactory to both sides. Now for such purpose we see on page 5 of the committee's report certain percentage returns have been given, as obtained by the landlords, whether Mahomedans, Parsis or Hindus. They have mentioned the returns in 1916 as being 5½ per cent. in the case of most localities. The committee say : " If a 5 per cent. net return was obtained in 1916 then in 1922 an increase of 25 per cent. on the standard rent would yield a return of 6·57 per cent. on the capital and an increase of 53⅓ per cent. would yield 7·12 per cent. Now, Sir, I cannot understand why the

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members of this committee could not give us the returns or the figures before the war and particularly the figures of 1914, in order to be a guide for us to determine whether the investment in landed property ought to be made to yield more as the Honourable Member in charge of the bill wants to make it, namely 7½ per cent. I beg to submit, Sir, we have not before us the figures of the returns on land for the years 1914, 1918, 1920 and so on, and these would play a very great part in the consideration of the bill in select committee—especially the figures for the years 1914. That would enable us to determine whether the landlords should have as a rule the usual increments or the usual returns that they would get with respect to their investment in land and houses. In my opinion never in the history of land returns the average yield has gone above 5 per cent. In conclusion, I beg to submit to this House that the increase proposed by the Honourable Member in charge of the bill, namely, 33⅓ per cent. should not be given, but more figures should be placed before us for determining to what extent the landlords would suffer if there had been no increase in the rents, and what are the classes who require protection of the law in these matters. Then the question comes whether the conditions to-day are such as to warrant any increase in the rents at all or such as to warrant any hope that normal conditions would prevail in the near future. That is also a matter for the consideration of the select committee.

Finally comes the question whether the Rent Acts should be extended for one year, or two years or more from now. It is a matter which should be considered very carefully by the select committee. At least to the poorer classes and the middle classes the relief now afforded by the Rent Acts will have to be given for some considerable time to come.

Mr. F. NELSON (Bombay Chamber of Commerce): I beg to move the closure, Sir.

(At this stage several honourable members rose in their seats simultaneously).

Mr. DIPCHAND T. OJHA (Karachi City): I should like to speak a few words, Sir, from the point of view of Karachi. I rise, Sir, to support the first reading of the bill. I find that some members have offered congratulations to the Honourable the General Member in charge of the bill and some at the same time have levelled criticism at him. I do not know whether I should join one party or the other in this matter inasmuch as, in the opening remarks, the Honourable the General Member did not make any reference to the city of Karachi. All he said was about Bombay and he seemed to have very little knowledge of the conditions of Karachi; otherwise he would have also made a reference to the conditions of Karachi. I submit, Sir, that both Acts, namely, Act II of 1918 and Act VII of 1918 were war measures pure and simple as I shall prove later on. Karachi and Bombay both being important seaports and defended harbours were considered to be the main bases of supplies of recruits etc., for Mesopotamia and Africa, with the result that in the course of time there was a great influx of labourers, artizans and workmen into these two ports, and further both these cities were made the bases of supplies of troops and the ports of embarkation and disembarkation of troops. Restrictions were therefore imposed upon every commodity, during the continuance of the war, and the Government therefore also thought fit that some kind of control should be had on landed property as well. I submit that those circumstances do not

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now exist and that as the control upon commodities has been removed, I fail to see why control on landed property should not also be removed. Sir, His Excellency the Governor of Bombay, while recommending the third reading of the first Rent Bill in 1918 expressed himself as follows :—

"I quite admit that this bill is entirely novel in character and is to some extent restrictive in its action but I think honourable members have all realised that this is due to the effects of the war and the circumstances under which we exist at this particular moment. It is of course a common knowledge that our city has become the main base of supplies for the whole of the Mesopotamian forces, that here we have the main base for hospitals and all troops that go to and from either East Africa or Mesopotamia."

Now this will show the grounds on which the Acts were passed. So far as my knowledge goes, the armistice with Germany was effected in 1918. Now, for the sake of argument, let us consider that the war measure was to continue for six months or at the most two years after the discontinuance of the war. I submit that the war was over in January 1920. However, Government extended the Act to 1922 and I find it subsequently extended to 1923, and the proposal now is that it should be extended further for a year more, till August 1924. I submit, Sir, having regard to all the circumstances that have transpired up till now and having regard to the reasons advanced by some of my honourable friends from Bombay, this Act should have been thrown out long before this. No doubt, the existence of these two Acts has created, as one honourable member from Bombay said, extremely strained relations between the landlord and the tenant, but, as the tenant was being encouraged under the protection of these two Acts, the tenant considered himself to be the landlord and the landlord to be the tenant. The control exercised over landed property also to a certain extent came in for a share of blame in my humble opinion. There are unhappy instances in Karachi also in which the tenant class has treated the landlord class very badly, and has caused injury to the landlord's property and person and has robbed the poor landlord of his rent for months together, apart from the fact that tenants have made unlawful profits by transferring the tenements to sub-tenants and demanding considerable sums from them as *Mithai* or consideration for such transfer. That clearly shows that the tenants taking advantage of the Rent Acts benefited themselves considerably and challenged the landlords. The landlords were often obliged to go to court, with the result that delays were caused and much time elapsed before any relief could be given to them, and in the meantime if the tenant ran away the poor landlord was obliged to lose the rent and submit to his fate. There are sub-tenants who do not recognise landlords. There was no remedy for the landlord to eject the sub-tenants. The result was that the landlord was entirely at the mercy of the tenant and was required to leave the property at the mercy of the tenant, the reason being that the tenant class could see that Government was at its back and that it was protected by the court and not the landlord. It was subsequently, as my honourable friend Mr. Haji.....

The Honourable the PRESIDENT : The honourable member must say 'my honourable friend from Bombay.' In the House of Commons if an honourable member is during a debate mentioned by another honourable member by his name he is called to order by the Chair.

Mr. B. G. PAHALAJANI : There are some difficulties, Sir, which I will place before you in this matter. Suppose there are two honourable members for one district or constituency and if I want to name a particular member, how can I distinguish him ? Also how can I address an official member, and also a nominated member ?

The Honourable the PRESIDENT : When there are two or more honourable members for one district or constituency, you may refer to him as " the honourable member for Bombay " and point him out. A nominated member may be referred to as " the honourable nominated member for " the locality he comes from or the interest he is nominated to represent. A Government officer should be referred to by his office, as for instance, the honourable member, Commissioner for the Southern Division, the honourable member, Registrar, Co-operative Societies, the honourable member, the Chief Secretary, and so on. These forms must be observed ; their value will be appreciated as the Council gets more and more used to them.

Mr. DIPCHAND T. OJHA : The honourable member for Bombay said that the High Court and the Court of Small Causes did not of late decide cases in favour of the tenants and that, in the opinion of the honourable member, was rather hard upon the tenants. But he is mistaken in this view ; it is because the Government or the Courts have begun to realise now that the tenants are terrorizing the landlords for nothing and are taking undue advantage of the protection under the Rent Acts that the High Court and the Court of Small Causes have begun to decide cases in favour of the landlords. In other words the courts have begun to see that these war restriction Acts are beginning to work harshly on the landlord class. That in itself, Sir, goes to show that these Acts enacted by Government are one-sided, that they are more in favour of the tenant class and also partial to the tenant class. For although the landlords have put their case before Government, the Government have not been able to see how harshly they are working on the landlords. I therefore cannot endorse the remarks made by my honourable friend on my right, the honourable member for Bombay, and I repeat that this Act should be abolished instead of being extended. I am rather surprised to see that not a single honourable member against the bill has come forward to say that the extension of the two Acts should be till eternity. But they rather seem to be satisfied with a little extension of two, or three or four years only. I submit that if these two Acts are extended even for a year more, the relationship between landlords and tenants will become more and more estranged with the result, as was observed by one of the honourable members, that after the expiry of the Rent Act some tenants who are in occupation at present will be in a worse position because of their having unnecessarily worried and troubled their landlords under the protection afforded to them by the Act. There have been instances of this kind in Karachi I know, and can quote them for the information of those who are against the bill—I mean those who are against some of the provisions of this bill introduced by the Honourable Member in charge. Even in Karachi the tenant class has the audacity to come forward and if I mistake not they have made representations to the Government of Bombay also that the landlord should be forced to provide the tenants with sufficient arrangement for water for flushing purposes and the like, and all sorts of conveniences and facilities on the first, second and third floors of the premises though they knew very well that the water supply is scanty and that the prices of the material have gone up. Still they go on urging that such and such a provision should be made for them in the Act. It is not preposterous to think or say that all these facilities should be provided without their paying a single pie more to the landlord as rent ? I know there are several other such instances in Karachi. I may quote them for the information of the honourable House and for the information of those honourable members who say that the landlord class is a bad class and that the Act should be extended for a long

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period for the convenience of the tenants. I say, Sir, there are instances in which tenants allow four or five families to live together, with the result that the accommodation becomes overcrowded. They want additional bath-rooms, additional cook-rooms, additional water closets and so on, with a view to afford facilities to the people who are subsequently imported into the premises. They then divide the rents among themselves to the detriment of the landlord. They approached the Rent Controller in Karachi and the Controller refused to interfere, and then it was represented to the municipality that the municipality should take some action in the matter, and that, if possible, the landlord, should be forced to provide all these additional facilities without the tenants paying a single pie. Of course the municipality had to look into the matter. They sent their health officer to the premises who found that the premises were over-crowded and reported to the municipality that from a sanitary point of view so many people should not be allowed to stay on the premises. These are instances that I have quoted for the information of those who say that the Act should be extended for at least five years more and that the percentage of increase now proposed should be reduced for the benefit of the tenants. I am, Sir, going to say something more which will show that so far as Karachi is concerned there should be no reduction of the 33⅓ per cent. at all unless Government sees its way to meet the wishes of the people of Karachi. I think, Sir, my honourable colleagues who belong to the Presidency proper do not know the nature of the tenure of property in Karachi. In Karachi there are two classes of property; some plots belong to the Government and the others belong to the municipality. The municipality levy house-tax, land rent, and so on, on the plots sold by them, and Government charges land rent on their plots. Some plots belonging to Government are held on 21 years' lease and some on 51 years' lease. Some of these leases expired in 1910-11 and 1914-15. The Government did not take any particular care to revise the assessment at the time when the leases expired. They sat silent for nearly 12 years, and it is only now that the Government have come forward and revised the assessment, but they have revised it to such an extent that it is absolutely intolerable for holders of Government land to continue in possession of the property for any length of time. The landlords in Karachi holding plots from Government think that the Government want to deprive them of their property and want to turn themselves into landlords. I do not know how far the suspicion expressed by my honourable friend from Bombay, that the Government wants to make property and earn a profit thereon is well-founded, but when the new rules of revised assessment were published in Sind in June 1922 it gave an impression to people in Karachi that the Government wanted to have the lands for themselves.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: What is the difference between the municipal and Government ground rents?

Mr. DIPCHAND T. OJHA: The municipality have got their own rates, but Government forced the municipality to adjust their scale in such a way that it might be in consonance with the scale laid down by Government. A representation was made to Government, and the Government replied to the Landlords' Defence Association that they were sending in October their own Consulting Surveyor, Mr. Mirams, to consult landholders and to report on the matter. Somtime ago Mr. Mirams was in Karachi, stayed there for some months, and made his suggestions to the Collector with regard to

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the revision of land rent. The Collector made his own suggestions to the Commissioner and the Commissioner sent his proposals to the Government, and the Government have set aside the suggestions of all these officers and have fixed the scale as it thought proper. And mind you, this revised assessment has got a retrospective effect. In other words, these assessments on the scales sanctioned by Government in June 1922 will have a retrospective effect from 1911 in addition to the premium to be paid for leases which expired in 1910 and 1914-15.

The Honourable Sir IBRAHIM RAHIMTOOLA: I rise to a point of of order, Sir. The Legislative Council has a very important and a very long agenda paper to go through. The honourable member is talking on the Rent Act, but he is referring to the action of Government in regard to the revision of ground rents for leases given by Government to occupiers of land in Karachi. Sir, I fail to see what connection there is between the Rent Act and the ground rent revision in Karachi.

Mr. DIPCHAND T. OJHA: Sir, I had expected this question to be raised and I am prepared to answer it. The relevancy is this. If my honourable colleagues think that this 33⅓ per cent. should be reduced, I say that so many taxes are already saddled on to the property, and premiums to the extent of thousands of rupees have to be paid. Will not the occupiers of land suffer if they are compelled to rent their houses on small rents? I will give certain instances of the revision of these assessments. In the case of one plot the original assessment was Rs. 14: the Collector said it should be Rs. 880 per year; Mr. Mirams suggested that it should be Rs. 1,770 and the Government have imposed Rs. 1,995. Now look at the great increase from Rs. 14 to Rs. 1,995. In the case of another plot.....

The Honourable the PRESIDENT: How is this relevant to the question of putting restrictions upon the freedom of contract between the landlord and his tenant?

Mr. DIPCHAND T. OJHA: If there is to be freedom of contract between Government and landlords, there must be freedom of contract between the landlord and the tenant. If freedom of contract is allowed in one case, why should it not be allowed in the other case?

The Honourable the PRESIDENT: That is not relevant. If and when that question arises the Council may discuss and decide, but it has not arisen now.

Mr. DIPCHAND T. OJHA: I am sorry, Sir, revenue is a reserved subject and it cannot be referred to in this Council.

The Honourable the PRESIDENT: I do not see the relevancy of this point as regards leases by Government.

Mr. DIPCHAND T. OJHA: I am sorry, Sir, my point has not been appreciated and followed. I refer to it to show that the landlords who have to pay these heavy assessments and taxes will be unable to meet their liabilities without increasing their rents.

The Honourable the PRESIDENT: I see the honourable member's point now. His point is that the effect of interference by this bill with freedom of contract between a landlord and his tenant will be to restrict the former's right to recover proper rent from the latter while Government do not relax their right but reduce the landlord to a position of almost.....

Mr. DIPCHAND T. OJHA: Penury. My object in placing this point of view before the Council is two-fold; one is that so far as Karachi is concerned, the bill should provide not only for 33⅓ per cent. but more, as Government wants to be the superior landlord of properties in Karachi—in other words Government want to take the money from us and want at the same time to saddle us with so much liability with the result that people will be obliged to give up their holdings—they will be, they are going to. What will be the result?

The Honourable the PRESIDENT: I understand your point; you say that the legislature is asked to restrict the landlord's right to recover from his tenant whereas Government is not restricted in taking as much rent as they like from the landlord.

Mr. DIPCHAND T. OJHA: In other words, they want to cut the throats of the landlords. The reason why I rather insist upon speaking on behalf of Karachi city is to let my honourable friends know that this bill does not meet the wishes of the people of Karachi and I hope, Sir, that Government will, while in this manner safeguarding the interests of tenants, also at the same time have at heart the welfare of the landlord class. My object again is that, having regard to this innovation lately introduced in Karachi, I am afraid that it may also be introduced in Bombay and therefore it is in my opinion desirable that the select committee should consider the most pertinent point, namely, so far as the circumstances of Karachi are concerned, whether or not the suggestion of my honourable friend from Bombay on my right was a reasonable one or not, that the Act which was introduced as a war measure should have been discontinued long before this.

Mr. PURSHOTAMDAS THAKURDAS: I am afraid.....

The Honourable the PRESIDENT: The honourable member for Karachi (Mr. Ojha) has not given way; unless he lets the honourable member rise to interrupt, the latter cannot interrupt.

Mr. DIPCHAND T. OJHA: I do not know how my honourable friend will help me. I have placed all the facts before him—if I have not got sufficient knowledge of facts, I shall be obliged to him if he can help me out of the difficulty so far as the Landlords' Defence Association in Karachi is concerned, namely, how the case of landlords can be considered along with the case of tenants. How is the tenant class going to be helped? How is the landlord class going to be helped? That is the question. I submit, Sir, under these circumstances the select committee will consider the question whether 33⅓ per cent. is too high or should be graduated in any way, but speaking from the point of view of the landlords in Karachi, I think that the bill throws considerable hardship upon them. When we have regard to the fact that the Government has recently revised ground rents and premiums exhorbitantly, the Rent Act ought to be liberally revised.

My honourable friend from Bombay representing the Mahomedan interests remarked that there was a good deal of profiteering in the shape of speculation in land. I fail to see what this speculation or profiteering in land had to do with the Rent Acts. I fail to see how that helped the tenant class—I fail to see how that helped the landlord class as against the tenants under the Rent Acts.

I do not know whether I should take up any further time of the Council in placing facts as regards Karachi, which facts are different from those prevailing in Bombay. I hope the select committee will consider the conditions and the case of Karachi on a different level from that of Bombay, but if the

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select committee consider that the present act should not be extended to Karachi from 31st August 1922 I shall be very pleased to hear that —more pleased to hear that. Of course I find in Bombay a lot of circumstances and conditions and other things of which I have not the least idea and therefore say, Sir, that Bombay should be placed on a different level and that the case of Karachi should be considered by the select committee on the facts which I have now placed before the Council, and I hope that the select committee will lay down what percentage should be added to the rents now charged by the landlords in Karachi in the light of facts disclosed by me and which are not applicable to Bombay.

Mr. A. N. SURVE (Bombay City, North): I rise, Sir, to support the first reading of this bill. It is not a piece of perfection but it is the best that could be devised to meet existing conditions. The Honourable mover of this bill has rightly told us that there are controversial points in it and he would see that they are thoroughly discussed in the select committee. I congratulate him for the tact which he has shown in disarming opposition. Such amiability and reasonableness on the Government side would lead to more harmony and less loss of time in discussion.

I now come to the first point of principle that is involved in this bill, namely, the duration of the Rent Acts. Taking all the circumstances into consideration, I think the proposed extension is a reasonable proposition. The bill proposes to extend the operation of the Rent Acts to the 31st August 1924. That proposition is a fair one and my reason for saying so is that so long as the Rent Act is on the statute book the operation of the law of supply and demand will be greatly restricted, and no private enterprise will come forward to put up more houses, the result of which will be that the congestion will not be diminished. The Development Department is building 50,000 single-room tenements and, if the Rent Acts are not repealed, I am of opinion that tenants living in the city will not go to the tenements built by the Development Department whose rent will be higher than what is paid by the poorer classes of Bombay under those Acts. My honourable friend representing Thana has said that there is a famine of houses in Bombay, and 10,000 more houses must be built to remove congestion and to restore normal conditions. He has also told us that in Bombay every year 700 new houses are built, and that therefore the Rent Act should be in force for something like ten years more. But I would draw his attention to the Census Report. It states that the population of Bombay in 1911 was somewhere near 10½ lakhs, and the Census Report of the year 1921 says that it has gone now somewhere near 12 lakhs. That means that there is an increase of only 1½ lakhs of persons. Now, we know that in the year 1910 there was no complaint about famine of houses. So, I think that if there is overcrowding, it is due to the increase of 1½ lakhs of persons having come into Bombay during this period of ten years. It may be said that during the period of these ten years, the City Improvement Trust has demolished houses and constructed new roads. But I can assure my honourable friend from Thana that if he reads the reports of the City Improvement Trust, he will find that all those people who were dishoused by the Improvement Trust are now housed by them. Therefore the operations of the Improvement Trust have not increased congestion. Sir, exaggeration may be a good thing to attract attention, but it leads to wrong conclusions; therefore in a deliberative assembly like this it should be kept within proper limits.

The Honourable the PRESIDENT: Are you likely to take some time, Mr. Surve?

Mr. A. N. SURVE: Ten to fifteen minutes more, Sir.

The Honourable the PRESIDENT: In that case, I think we will adjourn, but before we adjourn I hope honourable members will not think that I am laying down a rule which is not in accordance with the necessities of this House, as regards the way in which one honourable member shall refer to another honourable member. I will only say that as regards these forms, a name distinguished in the history of the British Constitution and a great Parliamentarian, the late Sir Henry Campbell Bannerman, once said in that House at a debate:—

"These are very small matters no doubt in one sense, but, as I have said, it is not mere pedantry. Depend upon it there is something in even the smallest of these forms."

May in his "Parliamentary Practice" points out:

"Each member must be distinguished by the office he holds, by the place he represents, or by other titles, as the Noble Lord the Secretary of State for Foreign Affairs, the Honourable or Right Honourable Gentleman the Member for York, or the honourable and learned Member who has just sat down."

I should be unworthy of my place here if I did not request and require honourable members to adhere to these forms. Looseness as to them to-day may and is sure to lead to worse than looseness in this House two or three years after this. (Hear, hear, and applause.)

The Council is adjourned till 2 p. m. on Friday, the 29th September 1922.

*Friday, the 29th September 1922.*

The Council re-assembled at the Council Hall, Poona, on Friday, the 29th September 1922, at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present:*

ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
CLAYTON, Mr. F.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA
DWARKADAS, Mr. KANJI
FERNANDES, Major C.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GODAD, Khan Saheb ABDULLA AVJAL
GODBOLE, Dewan Bahadur K. R.
GRIFFITH, Mr. F. C.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HAJI KHAMISO GUL MAHOMED, Mr.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
HOOD, Mr. A. J. F.
ISRAN, Khan Saheb G. A.
JADHAV, Mr. B. V.
JENNINGS, Major-General W. E.

KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
KANGA, Mr. J. B.
KASSIM, Mr. G. H.
KER, Mr. J. C.
LAGHARI, Khan Bahadur KHAIR BAKSH
LAHORI, Khan Bahadur HAJI AMIRALI
LALBHAI AMBARAM, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LIGADE, Mr. S. P.
LORY, Mr. F. B. P.
MANSURI, Khan Saheb A. M.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MODI, Sardar Davar T. K.
MOHIDINKHAN, Khan Saheb HAJI HAZRATH KHAN
MOHOMED SALAHUDDIN K., Mr.
MONIE, Mr. P. W.
MOUNTFORD, Mr. L. J.
MUTALIK, Sardar V. N.
NELSON, Mr. F.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PAINTER, Mr. H. L.
PARANJPYE, The Hon'ble Dr. R. P.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SAYED, Mr. MAHOMED KAMAL SHAH
SETALVAD, The Hon'ble Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY

SINDORE, Mr. H. N.

SURVE, Mr. A. N.

THAKOR of AMOD Sardar NAHARSINGHJI.

THOMAS, Mr. G. A.

TRIVEDI, Mr. G. B.

VICHARE, Rao Bahadur D. A.

The Honourable the PRESIDENT: Order, order. Questions.

## PROPORTIONATE REDUCTION OF GRAIN COMPENSATION AND WAR ALLOWANCES.

Mr. P. N. ADHAV (Satara District): When the prices of staple food grains are steadily falling, will Government be pleased to state if any action is taken to proportionately reduce the grain compensation and war allowances to establishments wherever allowed?

The Honourable Mr. H. S. LAWRENCE: Grain Compensation Allowance or War Allowance are not at present drawn by any establishments.

## COST OF MAPS AND PLANS UNDER THE BOMBAY LAND REVENUE CODE.

* Mr. G. C. BHATE (Kolaba District): (*a*) Will Government be pleased to state the amount of costs of preparation of maps and plans under section 135G of the Land Revenue Code, (1) recovered up to now, and (2) to be recovered, in the Kolaba District?

(*b*) Is it a fact that such costs are recovered from the khatedars in some cases at least without even giving notices of demand?

(*c*) Is it a fact that the plans and maps prepared in Mahad taluka villages are in experimental stage being based on "Plane Table survey"?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*), (1) and (2). The total amount recovered up to now is Rs. 53,357 and that to be recovered is Rs. 77,090.

(*b*) No. The recoveries are always made by informing the khatedars orally, as the issue of notices of demand, in the first instance, will throw additional burden of notice fees on the khatedars. The survey expenses are recovered under section 135 (G) of the Land Revenue Code as a revenue demand. The amount to be recovered as certified by the mamlatdar, is entered in the accounts against each occupant, and the occupant has a right to inspect his account, free of charge, and to obtain a copy thereof for one anna.

(*c*) No.

Mr. G. C. BHATE: Am I to understand by the reply that the plans and maps are not in experimental stage?

The Honourable Sir IBRAHIM RAHIMTOOLA: Answer is in the negative. They are not experiments.

Mr. G. C. BHATE: Are they based on Plane Table Survey?

The Honourable Sir IBRAHIM RAHIMTOOLA: I require notice of the question.

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

TRANSFER OF THE CENTRAL RESEARCH INSTITUTE FROM DELHI TO BOMBAY.

Dr. S. S. BATLIWALA (Bombay City North): Will Government be pleased to state what reply they have received from the Government of India regarding the transfer of the Central Research Institute from Delhi to Bombay ?

The Honourable Dr. R. P. PARANJPYE: No final reply has yet been received from the Government of India.

TODDY LICENSE.

Sardar Khan Bahadur ADARJEE M. DALAL (Broach District): Are Government aware that the toddy license auction sales and tenders to be called for in the Surat and other districts will make toddy dearer and lead to more adulteration than when the license fees were fixed by the Collector ?

The Honourable Mr. C. V. MEHTA: The auctioning of toddy shops in places other than Surat has been in existence since 1918-19 and the tender system has been introduced in Surat and its vicinity since 1919-20. The working of the systems so far does not justify the honourable member's apprehensions.

GRAZING LAND.

Sardar Khan Bahadur ADARJEE M. DALAL (Broach District): (*a*) Will Government be pleased to place a statement on the table of grazing land assigned for each taluka in the Northern Division and the number of milch and plough cattle for the same ?

(*b*) Are Government aware that the area of this grazing waste land in some districts and talukas where rainfall is scarce and which are periodically affected by scarcities, have insufficient grazing lands for the cattle causing distress and hardship to the ryots ?

The Honourable Mr. C. V. MEHTA: Information has been called for.

BOMBAY SECRETARIAT.

Sardar Khan Bahadur ADARJEE M. DALAL (Broach District): Will Government be pleased to place on the table a comparative statement of the staff in the Bombay Secretariat, department by department, for the years 1913 and 1921, showing the total amounts of expenditure in each of the two years for salaries and other expenses incidental thereto and how many of this staff is composed of covenanted and other officials in 1913 and 1921 drawing a salary of Rs. 500 and upwards ?

The Honourable Mr. H. S. LAWRENCE: Information will be collected for the financial years 1913-14 and 1921-22.

SCARCITY OF DRINKING WATER IN BROACH DISTRICT.

Sardar Khan Bahadur ADARJEE M. DALAL (Broach District): Are Government aware that in the Bara tract of the Broach district on the coast villages of Wagra, Jambusar and Amod, chronic scarcity of drinking water and acute scarcity in the years of deficient rainfall prevail, necessitating cart service for water for distant villages and that the water grant given to the district local board is inadequate and out of proportion to the requirements and peculiar condition of those parts ?

The Honourable Dr. R. P. PARANJPYE: The information is being called for.

ESTABLISHMENT OF A MARINE TRAINING SCHOOL.

Major C. FERNANDES (Bombay City South): Will Government be pleased to state if they have in recent years received a petition from Indian seamen of this Presidency for the establishment of a marine training school? If so, will Government be pleased to place on the table the petition and the reply?

The Honourable Sir CHIMANLAL SETALVAD: Yes. The copies* asked for are laid on the Council table. This Government has since, however, addressed the Government of India on the subject of the establishment of a nautical school for lascars in this Presidency.

NUMBER OF VILLAGE PANCHAYATS ESTABLISHED.

Mr. D. D. GHOLAP: Will Government be pleased to state —

(*a*) how many village panchayats are established within the Presidency proper and

(*b*) how many members of the depressed classes were returned into them by election or by nomination?

The Honourable Khan Bahadur SHAIKH GHULAM HUSEIN: Enquiry is being made.

GOVERNMENT SCHOLARS IN GRANT MEDICAL COLLEGE.

Mr. D. D. GHOLAP: Will Government be pleased to state how many Government scholars are studying in the Grant Medical College, Bombay, and medical schools under Government control and what are their respective castes and sex?

The Honourable Dr. R. P. PARANJPYE: Information is being obtained.

WOMEN IN PROVINCIAL EDUCATIONAL SERVICE.

Mr. D. D. GHOLAP: Will Government be pleased to state how many Indian women are in the Provincial Educational Service and of what castes?

The Honourable Dr. R. P. PARANJPYE: Two. One Mahomedan and one Parsi.

QUALIFICATIONS OF HONORARY AND SPECIAL MAGISTRATES.

Mr. D. D. GHOLAP: Will Government be pleased to lay on table the names of the honorary and special magistrates of Central and Southern Divisions respectively together with their educational qualifications and powers?

The Honourable Mr. M. H. W. HAYWARD: A revised list of honorary and special magistrates which specifies their powers will shortly be published.

No educational qualifications are prescribed but the District Magistrates, in submitting their recommendations, take into consideration all qualifications necessary for the discharge of magisterial duties.

Mr. G. C. BHATE: What are "all those necessary qualifications" referred to?

The Honourable Mr. M. H. W. HAYWARD: There is no qualifying examination for honorary magistrates.

*Kept in Secretary's office.

GOVERNMENT SCHOLARS IN GIRLS' TRAINING SCHOOLS.

Mr. D. D. GHOLAP: Will Government be pleased to state how many Government scholars are in the training schools for girls and of what castes?

The Honourable Dr. R. P. PARANJPYE: The information has been called for.

SCHOLARSHIPS TO DEPRESSED CLASSES STUDENTS.

Mr. D. D. GHOLAP: Will Government be pleased to state how much sum has been spent in giving the scholarships to the depressed classes students out of the budget grant of Rs. 4,000 in 1921-1922 for arts colleges and how much is in hand?

The Honourable Dr. R. P. PARANJPYE: The information has been called for.

IRRIGATION SCHEMES IN BELGAUM DISTRICT.

Rao Saheb P. G. HALKATTI (Bijapur District): Will Government be pleased to inform:

(*a*) how far the irrigation schemes on the Ghataprabha and the Markandeyi rivers in the Belgaum district have progressed?

(*b*) when they are likely to be undertaken?

The Honourable Sir CHIMANLAL SETALVAD: (*a*) They are at present under investigation.

(*b*) Not for some years.

TECHNICAL AND INDUSTRIAL EDUCATION.

Rao Saheb P. G. HALKATTI (Bijapur District): Will Government be pleased to inform what further steps Government are going to adopt with respect to the report of the Technical and Industrial Education Committee having Sir. M. Vishweshwaraya as its chairman recently appointed by Government?

The Honourable Dr. R. P. PARANJPYE: The report is under the consideration of Government. It is, therefore, not possible to state at this stage what steps they propose to take.

GAMBLING ON THE STOCK EXCHANGE OF BOMBAY.

Mr. M. A. HAVELIVALA (Bombay City): Are Government aware of the huge gambling going on, on the stock exchange of Bombay for some months past to the great detriment and the ruin of a large section of the general investing public and the Indian industries? If so, whether Government intend to take any legislation in hand with a view to put a stop to this gambling?

The Honourable Mr. H. S. LAWRENCE: Government are not aware of the facts alleged.

FOOD GRANT FOR PATIENTS IN THE J. J. HOSPITAL.

Mr. M. A. HAVELIVALA (Bombay City): Will Government please state whether it is a fact that Colonel Carter, the Senior Medical authority, pointed out to Government that the grant which Government gave for food purposes was not enough and adequate for the patients of the

J. J. Hospital; and, if so, what action did the Government take on that requisition ?

The Honourable Mr. R. P. PARANJPYE: The matter is under consideration.

DAMAGE BY MONSOON TO BACK BAY RECLAMATION.

Mr. M. A. HAVELIVALA (Bombay City): Will Government be pleased to state whether any of the reclaimed portion of the Back Bay scheme is washed away by the monsoon of this year, and if so, to what extent, and what amount of damage thereby ?

The Honourable Sir CHIMANLAL SETALVAD : No part of Back Bay has yet been reclaimed. The sea-wall has been in no way damaged by the monsoon.

Mr. M. A. HAVELIVALA : I think the sea-wall has been damaged ?

The Honourable Sir CHIMANLAL SETALVAD : If the honourable member can spare time to visit the place after he returns to Bombay, he will find out that his information is quite wrong.

ASSISTANCE SUITS UNDER LAND REVENUE CODE.

Mr. B. V. JADHAV: (*a*) Will Government be pleased to state the number of assistance suits under sections 86, 87 of the Land Revenue Code instituted in the district of Satara in the years 1919-20, 1920-21 and 1921-22 ?

(*b*) In how many of these the full amount asked for by the superior holder was decreed and in how many was it reduced ?

(*c*) In how many of these decrees the discretionary fine of 25 per cent. was inflicted and awarded to the superior holders ?

(*d*) How many of these superior holders so rewarded were Brahmins ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Information has been called for.

WATANDAR TALATIS.

Mr. B. V. JADHAV: Will Government be pleased to state how many members of the old watandar families are employed as talatis in the district of Satara and how many of these are working in their own villages or within 10 miles of it ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Information will be called for.

REDUCTION OF TALATIS AND CLERKS.

Mr. B. V. JADHAV: Will Government be pleased to state the number of talatis and clerks in the Revenue Department in the district of Satara who were dismissed owing to the reduction in the staff and how many of them were Brahmins ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Information will be called for.

DECCAN AGRICULTURISTS' RELIEF ACT.

Rao Bahadur R. R. KALE (Satara District): Will the Government be pleased to state the reasons why the bill to amend the Deccan Agriculturists' Relief Act is delayed ?

The Honourable Mr. M. H. W. HAYWARD : It is still awaiting the reply of the Government of India.

Rao Bahadur R. R. KALE : Has any reminder been sent to the Government of India ?

The Honourable Mr. M. H. W. HAYWARD: A reminder was sent quite recently. The reference was made about a year ago to the Government of India.

INTERIM RECOMMENDATIONS OF RETRENCHMENT COMMITTEE.

Rao Bahadur R. R. KALE (Satara District) : What action is Government going to take with the respect to the interim recommendations of the Retrenchment Committee regarding the travelling allowance rates of the Government officers ?"

The Honourable Mr. H. S. LAWRENCE : Some of the recommendations of the Retrenchment Committee are still under the consideration of Government. Others were taken into consideration in passing various orders on the subject, copies* of which are laid on the Council table.

TENANTS' STRIKE.

Rao Bahadur R. R. KALE (Satara District) : In how many villages in the Satara and Belgaum districts lands of the landlord class are left uncultivated by the tenants on account of the strike made for reducing the exorbitant demands of the landlords ? Is it a fact that the landlords there do not get any help from the village Balutas as before ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Inquiry will be made.

GOVERNMENT RESOLUTION REGARDING ADMISSION OF GIRLS INTO SCHOOLS.

Rao Bahadur R. R. KALE (Satara District) : Will Government be pleased to lay on the Council table the Government Resolution in the matter of admission of girls into schools where no separate schools for girls exist ?

The Honourable Dr. R. P. PARANJPYE : A copy of Government Order,† Educational Department, No. 4951, dated the 31st October 1919, is laid on the table.

CO-OPERATIVE AGRICULTURAL CREDIT SOCIETIES.

Rao Bahadur R. R. KALE (Satara District) : (*a*) Will the Government be pleased to state whether the question of redemption of old debts of the members of the co-operative agricultural cerdit societies is now before them, and, if not

(*b*) what action is being taken on the report of the Registrar of Co-operative Credit Societies about the matter ?

The Honourable Mr. C. V. MEHTA : Yes ; some selected localities and societies are being taken up for action in conjunction with the Provincial and Central Banks.

TECHNICAL AND INDUSTRIAL EDUCATION.

Rao Bahadur R. R. KALE (Satara District) : Will Government be pleased to state what action has been taken on the report of the Technical and Industrial Education Committee in this Presidency ?

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* *Vide* Appendix U. † Kept in Secretary's office.

The Honourable Dr. R. P. PARANJPYE : The report is under the consideration of Government.

LINGAYAT STUDENTS.

Mr. S. T. KAMBLI (Dharwar District) : Will Government be pleased to state :—

(*a*) The total number of Lingayat students studying in all the arts colleges of this Presidency in the year 1921-22 ?

(*b*) The total number of Lingayat students studying in the professional colleges of this Presidency in the year 1921-22 ?

The Honourable Dr. R. P. PARANJPYE : (*a*) and (*b*) The information appears in the usual course in the annual reports of the Director of Public Instruction, but unless the member gives, privately if he so wishes, any special reason for getting it in advance, I do not think it proper to add to the work of an already overworked department.

TOTAL NUMBER OF LINGAYAT STUDENTS IN COLLEGES.

Mr. S. T. KAMBLI (Dharwar District) : Will the Government be pleased to give :—

(*a*) the number of Lingayat students in the various arts colleges of the Presidency as it stood at the end of July 1922 ?

(*b*) the number of Lingayat students studying in the professional colleges of the Presidency as it stood at the end of July 1922 ?

The Honourable Dr. R. P. PARANJPYE : (*a*) and (*b*) The information appears in the usual course in the annual reports of the Director of Public Instruction, but unless the member gives, privately if he so wishes, any special reason for getting it in advance, I do not think it proper to add to the work of an already overworked department.

INCREASED POTGI TO PATILS.

Mr. S. T. KAMBLI (Dharwar District) : (*a*) Will the Government be pleased to state whether it is the intention of the Government to give an increased amount of potgi to the village patils in the Dharwar, Bijapur and Belgaum districts ?

(*b*) If so, does Government intend to make a provision (for meeting additional expenditure on this head) in the next year's budget ?

The Honourable Sir IBRAHIM RAHIMTOOLA : The question of increase in the remuneration of patils is under the consideration of Government.

REVISION OF PAY OF SHETSANADIS.

Mr. S. T. KAMBLI (Dharwar District) : Will the Government be pleased to state :—

(*a*) Whether the pay of shetsanadis in the Dharwar district is revised ?

(*b*) If so, from what date ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Information has been called for.

INCREASE OF JURISDICTION OF SUBORDINATE JUDGES.

Mr. S. T. KAMBLI (Dharwar District) : (*a*) Will the Government be pleased to state whether it is a fact that the question of increasing the pecuniary limits of the jurisdiction of the second class subordinate judges was before the High Court or was considered by the Bombay High Court some time back ?

(*b*) If so, in what year ? And what was the opinion of the Bombay High Court on that question ?

The Honourable Mr. M. H. W. HAYWARD : Government understand that no such question has been before the High Court.

### ENGINEERING COLLEGE AT KARACHI.

*Mr. G. H. KASSIM (Karachi City) : (*a*) Will Government be pleased to state when candidates who have passed out of the D. J. Sind Engineering College at Karachi this year will get orders for joining their guaranteed appointments ?

(*b*) If the candidates who passed from the above College in 1921 have been given the guaranteed appointments ?

(*c*) If so, have the candidates resumed their duty ?

(*d*) If not, why ?

The Honourable Sir CHIMANLAL SETALVAD : (*a*) and (*b*). Thes points were replied to at the last session.

(*c*) and (*d*). Of the four candidates appointed two are already in Government service ; one has requested his appointment may be kept open for some time and the last man stated he would join his appointment a month after receipt of orders which have since issued.

### NEW MUNICIPAL ACT FOR KARACHI.

Mr. G. H. KASSIM (Karachi City) : Will Government be pleased to state when the new Municipal Act for the City of Karachi will be introduced in Council ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : The draft bill will be referred shortly to the Karachi municipality for its remarks. It is therefore not possible to fix a date for its introduction in Council.

### PROSPECTS OF ENGINEERING COLLEGE STUDENTS, SIND.

Mr. G. H. KASSIM (Karachi City) : Will Government be pleased to state :—

(*a*) What appointments and pay will be offered to candidates who have passed out of the D. J. Sind College of Engineering in March this year ?

(*b*) Is it a fact that the students of the D. J. Engineering College who passed in 1921 have not accepted the guaranteed appointments offered to them ?

(*c*) If the reply to (*b*) is in the affirmative, to state the reasons for their non-acceptance of such posts ?

The Honourable Sir CHIMANLAL SETALVAD : (*a*) One on the Upper Subordinate establishment on Rs. 100 per mensem and one on the Lower Subordinate establishment on Rs. 60 per mensem. Both subordinates will be on probation for one year. If on the expiry of the probationary period they are favourably reported upon by their superior officers they will be confirmed in their appointments and start on Rs. 100 per mensem each in their respective scales of pay.

(*b*) No.

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* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

CLEARANCE OF CANALS.

Mr. G. H. KASSIM (Karachi City): Will Government be pleased to state :—

(*a*) Is it a fact that the Engineering Department do not clean beds of canals in taluka Mirpur Bathoro, Karachi district, since the last few years ?

(*b*) Is it a fact that owing to this, there is not sufficient water in the canals to enable zamindars to cultivate their lands fully ?

(*c*) Why has the system of clearing canal beds been done away with ?

The Honourable Sir CHIMANLAL SETALVAD : (*a*) and (*c*) Clearance is done when required and as far as funds are available.

(*b*) It is not a fact.

COMPULSION TO CONSTRUCT MORIES.

Mr. G. H. KASSIM (Karachi City): (a) Are Government aware that the Engineering Department in Sind insist on zamindars to construct pukka *Mories* to their *Kuries* at their own expense, otherwise the said *Kuries* are being closed ?

(*b*) Is it a fact that three regulators which the Engineering Department had constructed in the Mirpur Bathoro taluka some years back are working no longer ?

(*c*) How much money was spent on their construction ?

(*d*) Were any zamindars of the division consulted before these regulators were constructed ?

The Honourable Sir CHIMANLAL SETALVAD :

(*a*) No.

(*b*), (*c*) *and* (*d*) As the regulators are not described these points cannot be answered.

INVITATION TO ZAMINDARS FOR ENGINEERS' CONFERENCE.

Mr. G. H. KASSIM (Karachi City): Will Government be pleased to state whether any zamindars in Sind were invited by the Commissioner in Sind last year at the Engineers' Conference held at Karachi ?

If not, why ?

The Honourable Sir CHIMANLAL SETALVAD: There is no reason why zamindars should be invited to attend departmental conferences unless their presence is specially desired.

ZAMINDARS' INABILITY TO REFUND TAKAVI AND PAY ASSESSMENT.

Mr. G. H. KASSIM (Karachi City): Will Government be pleased to state if they are aware that some zamindars in the Karachi district have been obliged to sell their lands at low prices owing to their inability to refund takavi and pay land assessment to Government ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Inquiry is being made.

INDEPENDENCE OF URDU CLASSES.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Are Government aware that two independent institutions existed some time back in the premises of Dharwar training college for men ? And will Government be pleased to state what objection there is in declaring the Urdu classes at Poona and Ahmedabad independent in the present premises ?

The Honourable Dr. R. P. PARANJPYE : Enquiries are being made.

PRACTICE OF DEPUTING PERSIAN TEACHERS TO SECONDARY TRAINING COLLEGE.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state why the practice of deputing Persian teachers along with other assistant teachers to the secondary training college, Bombay, has been stopped ?

The Honourable Dr. R. P. PARANJPYE: Enquiries are being made.

NEW PROVINCIAL ENGINEERS.

Mr. DIPCHAND T. OJHA (Karachi City): Will the Government be pleased to state whether the lists of the new provincial engineers acknowledged to have been received from the other local Governments, as per their reply No. 3 printed at page 1241 of Volume II of the proceedings of this Council, have now been examined; if not, what are the reasons of the long delay ?

The Honourable Sir CHIMANLAL SETALVAD: The lists have been examined in connection with the case represented by the joint deputation of Upper Subordinates and Assistant Engineers received in 1921 and the matter is still under the consideration of Government.

Mr. DIPCHAND T. OJHA: May I enquire how long Government will take to consider the matter and reach a final decision ?

The Honourable Sir CHIMANLAL SETALVAD: As soon as it can possibly be done.

P. W. D. DEPUTATION.

Mr. DIPCHAND T. OJHA (Karachi City): Will Government be pleased to state what delays the disposal of the case of the joint deputation of Public Works Department upper subordinates and provincial engineers that waited on the General Member of Government (the Honourable Sir Chimanlal Setalvad), and the Minister for Local-Self Government (the Honourable Khan Bahadur Ghulam Hussain) in June 1921 regarding the revision of the orders issued by this Government in their No. E.—1051 (P.W.D.), dated 19th January 1921 and Financial Department No. 20, dated 21st January 1921.

The Honourable Sir CHIMANLAL SETALVAD : The matter is still under the consideration of Government.

Mr. DIPCHAND T. OJHA: I hope the same reply will be given if I ask a similar supplementary question ?

The Honourable Sir CHIMANLAL SETALVAD: Exactly.

GIRLS' SCHOOL, AHMEDABAD.

Mr. B. P. PATEL (Ahmedabad District): Will the Government state whether the girls' high school at Ahmedabad was located in a separate hired building owing to want of accommodation at the Mahaluxmi training college ? Was there any substantial increase in the number of pupils requiring this change ?

The Honourable Dr. R. P. PARANJPYE: Enquiries are being made.

EXAMINATION OF URDU TRAINING CLASSES.

Mr. B. P. PATEL (Ahmedabad District): Will Government be pleased to state why is not the annual examination of all the Urdu training classes held on one and the same date throughout the Presidency proper on par with the divisional vernacular training colleges and the district training schools and the vernacular final examination ?

The Honourable Dr. R. P. PARANJPYE: Enquiries are being made.

FURNITURE OF DISTRICT LOCAL BOARDS.

Mr. B. P. PATEL (Ahmedabad District): (*a*) Is the Government aware that all the school furniture of the district local boards is made at Ahmedabad under the supervision of the Educational Inspector ? What were the reasons of doing away with the old practice of making them locally in each district ?

(*b*) What amounts were annually spent (from the time this system is in vogue) after the school furniture, and

(*c*) transit charges for the same ?

The Honourable Dr. R. P. PARANJPYE: Enquiries are being made.

CITY COURT BILL.

Mr. A. N. SURVE (Bombay City, North): (*a*) Have Government received back the bill on the City Court which was sent to the High Court for report ?

(*b*) If so, what action Government has taken upon it ?

(*c*) Will Government be pleased to place on the table a copy of the remark made by the High Court on the said bill ?

The Honourable Mr. M. H. W. HAYWARD: (*a*) and (*b*) The reply has been received and the matter is under the consideration of Government.

(*c*) It would be inconvenient to publish the papers pending consideration by Government.

Mr. M. A. HAVELIVALA: How long will Government take to consider this matter ? It is nearly a year since this matter was represented to this Council.

The Honourable Mr. M. H. W. HAYWARD: I cannot say definitely.

Mr. M. A. HAVELIVALA: Surely, Sir, you can state at what stage it is.

The Honourable Mr. M. H. W. HAYWARD: The papers have been under my personal investigation for the last few weeks.

Mr. M. A. HAVELIVALA: How long will it take to reach a decision ?

The Honourable Mr. M. H. W. HAYWARD: I cannot say.

REPORT OF COMMITTEE ON RENT ACTS.

Mr. A. N. SURVE (Bombay City, North): Will Government be pleased to place on the table the report of the committee appointed to suggest amendments to the Rent Acts ?

The Honourable Sir CHIMANLAL SETALVAD: Attention is invited to the reply given to Mr. G. B. Trivedi's question on the same subject.

SPECIAL SURVEY FOR BUNDING.

Mr. KANJI DWARKADAS on behalf of Mr. PURSHOTAMDAS THAKURDAS: Will Government be pleased to put on the table a statement showing what has been done by Government with regard to Resolution No. 12 passed by the Bombay Legislative Council on 20th September 1919 recommending that a special survey be made as early as possible with a view to find out the most suitable places on rivers and streams in the Presidency for purposes of bunding, and on receipt of the report of such survey to forthwith undertake such works without delay ?

The Honourable Sir CHIMANLAL SETALVAD: No action was taken on the resolution in question at that time for want of sufficient staff to carry out the investigation recommended therein. In (1) the Sukkur Barrage Project, (2) the Nira Valley Development Project and (3) the Gokak Extension Project the department has so much in hand that the staff is fully engaged for a long time ahead and more financially than it can cope with, almost indefinitely.

Mr. G. C. BHATE: Is it not possible for the Executive Engineers and their subordinates in the districts to cope with this work ?

The Honourable Sir CHIMANLAL SETALVAD: It has not been found possible.

RELEASE OF MULSHI PETA PRISONERS.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will the Government be pleased to state if it is not a fact that the release of the Mulshi peta prisoners was, a few months ago, recommended by the District Magistrate, Poona district, and that his recommendation was backed up by the Commissioner, Central Division ?

(*b*) If so, will the Government be pleased to give the reasons for rejecting the recommendation ?

The Honourable Mr. M. H. W. HAYWARD: (*a*) and (*b*). The release of these prisoners was considered along with other remissions in connection with retrenchment in jail expenditure. It is not in the public interests to disclose the opinions of officers consulted by Government.

ABOLITION OF HAZRI.

Mr. G. B. TRIVEDI (Thana District): (*a*) Were any proposals made by the City Magistrate to the Collector, Satara, last year for the abolition of Hazri on Mangs residing in Satara ?

(*b*) Has action, if any, been taken on those proposals ?

(*c*) If not, what is the cause of delay ?

The Honourable Mr. M. H. W. HAYWARD: Government are not aware of any such proposals.

Rao Bahadur R. R. KALE: The Mangs in the town of Satara have been exempted, whereas those in the district have not been. Why is it so ?

The Honourable Mr. M. H. W. HAYWARD: Government are not aware of that.

Rao Bahadur R. R. KALE: Will Government enquire ?

The Honourable Mr. M. H. W. HAYWARD: There is no necessity for any particular enquiry. I may say this: we have under consideration the question of a special settlement for the criminal tribes in the Thana District.

Rao Bahadur R. R. KALE: My question is not with reference to any particular class. My question is why they have been exempted in some places and not in others? Will Government be pleased to make enquiries into this differential treatment?

The Honourable Mr. M. H. W. HAYWARD: I cannot. But if there is any difficulty and if the matter is brought to my notice, I will see what can be done to remedy it. But as it is I have nothing on my record to justify any enquiry.

REPLY TO GOVERNMENT'S PRESS NOTE TO DHOLKA MUNICIPALITY.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will the Government be pleased to state if the Dholka municipality has sent any reply to the Government's ultimatum conveyed to the municipality in their press note no. 2703-A., dated July 22nd, 1922?

(*b*) If so, will they be pleased to place it on the Council table?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The answer is in the negative.

AWARDS FOR LANDS ACQUIRED IN SALSETTE AND TROMBAY.

Mr. G. B. TRIVEDI (Thana District): (*a*) How many awards for lands acquired in Salsette and Trombay have been made by acquisition officers up to August 1922?

(*b*) How many of these have been declared?

(*c*) How long will it take to declare the remainder?

The Honourable Sir CHIMANLAL SETALVAD: The information is being collected.

CIRCULAR TO GOVERNMENT PENSIONERS.

Mr. G. B. TRIVEDI (Thana District): (*a*) Have Government sent any circular to their pensioners that their political activities against Government would be considered as misconduct?

(*b*) How many pensioners are deprived of their pensions for their political activities during the last two years in this Presidency?

The Honourable Mr. H. S. LAWRENCE: (*a*) No such circular has been issued.

(*b*) One.

REPORT OF BOMBAY RENT COMMITTEE.

Mr. G. B. TRIVEDI (Thana District): Will Government be pleased to lay on the Council table the report of the Bombay Rent Act Committee?

The Honourable Sir CHIMANLAL SETALVAD: The report* is laid on the table.

GURCHARAN LAND IN THANA DISTRICT.

Mr. G. B. TRIVEDI (Thana District): Will the Government be pleased to state what was the area of Gurcharan land in 1917 at Palghar, Mahim and Alari in Mahim taluka, Thana district?

(*b*) How many acres were given away since 1917?

(*c*) Is the reduced area sufficient for the cattle of those villages?

The Honourable Mr. C. V. MEHTA: Information has been called for.

* Kept in Secretary's office.

RESTRICTION ON GRAZING LANDS.

Mr. G. B. TRIVEDI (Thana District): (*a*) Are Government aware that some mamlatdars in Thana district have recently issued notifications restricting the rights of free use of grazing lands other than open forests ?

(*b*) What is the Government's justification for issuing such notifications ?

(*c*) Are the Government aware that thereby they are causing discontent amongst villagers ?

The Honourable Mr. C. V. MEHTA : Information has been called for.

INTRODUCTION OF VILLAGE PANCHAYATS.

Mr. G. B. TRIVEDI (Thana District): (*a*) Have the Government received recommendation from Mahim taluka local board for granting village panchayats to Palghar, Tarapore and Sofala ?

(*b*) Have they come to any decision in the matter ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: No. Attention is invited to section 3 of the Village Panchayats Act, 1920.

SALE OF INJAILI TREES.

Mr. G. B. TRIVEDI (Thana District): (*a*) Are Government aware that injaili trees from Gurcharan land of Mendhavan in Manor range, Mahim taluka, have been sold ?

(*b*) Is this according to usual rules ?

(*c*) Did the people of the village object to it ?

The Honourable Mr. C. V. MEHTA : Inquiry is being made.

FOREST DEPOTS IN THANA DISTRICT.

11. Mr. G. B. TRIVEDI (Thana District): (*a*) Are forest depôts in Thana district generally closed between the months of April and November ?

(*b*) If so what steps are Government taking to meet the demand for fuel during these months ?

The Honourable Mr. C. V. MEHTA : Information has been called for.

PERMIT FEE FOR CUTTING TREES.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to say under what agreement the cultivators are asked to pay from one half to one rupee per tree of teak as permit fee for cutting trees standing in their fields for which they have been paying land assessment from generation to generation and have no agreement asking the cultivators to maintain such trees as reserved such as teak, sandal, etc. ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Attention is invited to sections 40 to 42 of the Land Revenue Code and Rules 58 to 63 made thereunder in which the legal position regarding the right of Government to trees in occupied land is defined.

NON-BRAHMINS ON BOARD OF EXAMINERS.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to state as to whether there is any non-Brahmin member on the board of examiners of the training colleges ? If not, will Government be pleased to say when this defect is likely to be rectified ?

The Honourable Dr. R. P. PARANJPYE : Enquiries are being made.

NET INCOME FROM LAND UNDER FOREST.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to say whether the land under Forest in the Ratnagiri, Kolaba and Satara districts brings a net income per acre more than one rupee or less ?

The Honourable Mr. C. V. MEHTA: The net income from forests in the Kolaba and Satara divisions is less than one rupee per acre. The Kolaba division includes the Dapoli taluka of the Ratnagiri district. There is no forest in charge of the Forest Department in the rest of the district.

DIFFERENCE IN SCALES OF PAY OF TEACHERS.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to say whether different scales of pay are proposed for the Brahmin and non-Brahmin village teachers in the Ratnagiri district ?

If not, what is the minimum pay on which a qualified non-Brahmin teacher can be engaged in a non-Brahmin village as well as a Brahmin teacher in a Brahmin village ?

The Honourable Dr. R. P. PARANJPYE: Enquiries are being made.

APPLICATIONS BY NON-BRAHMIN VILLAGERS.

Rao Bahadur D. A. VICHARE (Ratnagiri District): (*a*) Will Government be pleased to lay on table the date of first applications made by the non-Brahmin villagers of Masura, Malvan taluka, Parolee and Paral Vada of Vengurla taluka and Vada Donga for additional and new teachers, respectively ?

(*b*) And whether they have been complied with ?

(*c*) If not, will Government be pleased to say as to whether no new teachers were granted during this period up to now to any of the villages mainly occupied by Brahmins, as well as by Brahmins and non-Brahmins ?

(*d*) Will Government be pleased to say whether the additional teacher given to the village of Masura as intimated in Government Memorandum No. 230-F (dated the 9th December 1921) has been again withdrawn ? If so, why ?

The Honourable Dr. R. P. PARANJPYE: Enquiries are being made.

(Presentation of Petitions.)

Dr. K. E. DADACHANJI (Bombay City, South): Mr. President, on behalf of the proprietors of cinemas and theatres.....

The Honourable the PRESIDENT: Are you going to present a petition ? Will you allow me to look at it ? I ought to take this opportunity to inform the Council, and through the Council the public in general, that petitions with reference to bills pending in this Council are frequently addressed to me. I have received a number of them. I have with the assent of the House on a previous occasion laid down the rule, and that has become in effect the Standing Order of this Council, that no petitions shall be taken notice of with reference to any matter before this Council unless such petition is presented by one of the honourable members of this Council, and it is the duty of the honourable member presenting any petition to see that it is in proper order, that is to say, that it contains no defamatory statement, no offensive language and nothing calculated to wound the feelings of any class or community. On the ground of this rule, I have had to lay aside all the petitions that have been received by me.

[Dr. K. E. Dadachanji]

I cannot make any exception. If any portion of the public will go on infringing the rule and addressing petitions to me, surely it is neither my right nor my duty to place them before the Council. Also, whenever any honourable member desires to present a petition, I hope he will allow me to see it previously in order that I may examine its contents and see whether it contains anything objectionable, so as to prevent my allowing it to be placed before the Council.

I ought also to say another thing. There are some bodies which seem to think that it is allowable to them to make improper reflections upon this Council in criticising its proceedings and submit their representations to this Council through Government. I hope Government will not countenance that. Any representations which are made to Government with reference to any matter pending before the Council, with a request express or implied, that they may be forwarded to or in some way brought to the notice of this Council shall be treated under, and with due regard to, the rule about petitions which I have laid down with the general assent of the Council. I hope Government will see to it that such representations are not forwarded to this Council or otherwise taken notice of. One such representation was forwarded to me, and I have declined to take any notice of it. What you cannot do directly you cannot be allowed to do indirectly through Government.

Dr. K. E. DADACHANJI: The petitioners pray that the rates proposed in the bill are far in excess of those mentioned in the Finance Act; that it is unjust and inequitable to levy rates on gross incomes, without any regard to the profit and loss of the theatres and cinemas; that the bill does not take notice of supplementary tickets and passes, and that the bill makes no provision for cases in which accommodation being found insufficient in a lower class the persons are allowed to sit in the higher class without charging the difference between the lower and higher classes. They pray that a committee should be appointed to go into this matter.

Petition ordered to be laid on the table.

## RENT ACTS AMENDMENT BILL (BILL NO. XV OF 1922).

(Debate on the first reading resumed.)

Mr. A. N. SURVE (Bombay City, North): Mr. President, before we adjourned last evening, I was speaking on the point of the duration of the Rent Act, and I had said that we have to accommodate about a lakh and a half of people that were in excess of the last census figure, and therefore it was not necessary to lengthen the duration of the Rent Act for a longer period than two years, that is, 31st August 1924. To continue on the same point, I beg to say that those who have proposed a longer period have not taken into account the building activities that have been carried on in Bombay by different bodies, the most important of which is the Development Directorate. This House is very well aware that this Directorate has laid down a programme of building 50,000 single room tenements in a period of 8 years. According to that programme 60 chawls will be built by the 31st of March 1923; 65 more will be built by the end of 31st March 1924, and by the time the Rent Act is repealed on the 31st August 1924, 50 more chawls are likely to be completed. If we add these together, we get 175 chawls by the end of August 1924. Sir, each chawl will contain 80 rooms; so 175 chawls multiplied by 80 will bring into existence 14,000 rooms, and if you calculate 5 persons to a single tenement, by the end of 31st August we will have provided room for 70,000 men. Now, the second

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body that is working in this direction is the City Improvement Trust. We are told that within the next three years it is going to build 3,900 single room tenements. That means that by the operations of the Development Directorate and the City Improvement Trust, by the end of August 1924 nearly 90,000 people out of one and a half lakhs will be provided for. That is so far as the poorer people are concerned. The City Improvement Trust leases out its plots, and private owners build on them for the richer people. So, both the poor and the rich are provided for. Then, the third body that is at work is the Port Trust. It has a scheme in hand for its clerical staff drawing a monthly salary of Rs. 100 and less, known as the "Antop Hill Scheme" in which 1,700 garden cottages are going to be built, out of which nearly 500 are now ready. It was said yesterday that nothing was done for the poorer and lower middle classes. This is an example showing that something is being done for them. Then, the millowners are also working in this direction. 26 chawls are now either in existence or under construction and 18 more are expected to be undertaken in hand in the near future. Then Government have schemes of their own for the police people. Thus, many agencies are at work to relieve congestion and our Government, out of the Development Loan, is giving out loans to those bodies for the purpose of housing people. Thus, you will see that the problem of scarcity of houses is to remain only for a short time. That is the reason why the duration of the bill should not be longer than two years.

My honourable friend representing labour yesterday observed that the committee on the Rent Acts recommended an extension, but I notice that their recommendation is to extend the Act to the 31st March 1924, whereas the bill before us goes still further and extends its operation to the 31st August 1924.

The honourable member representing the commercial interests of Bombay (whom I do not see in his seat now) said that the report of the committee only stated an opinion when it said that the duration of the Act should be continued till the 31st of March 1924 and that it was ill-founded. But, Sir, the explanation which I have given by placing facts and figures before this House has shown to you that the opinion of the committee is not ill-founded. The honourable member said that the Rent Act has created a vicious circle. He has admitted that since the Rent Act came into operation people do not like to invest their money in buildings and yet he said he would vote for an extension of this Act for a longer period. Is that the way of getting out of the vicious circle? I submit, Sir, that that is not the proper way. He says that if you do away with the Act, at least 45 per cent. of the tenants will be driven out to-morrow. Nobody has said that the Acts should be repealed immediately but whether you repeal them to-morrow or after five years, the tenants who have ill-treated their landlords will have to leave the premises at the termination of the Rent Acts. For this reason I do not see any reason in extending the period of this measure to a longer period. On the contrary, if a remedy is to be suggested, I think that the only remedy by which we can get out of the difficulty is to accept the bill in its present form.

Sir, I now come to the point referring to the increase of percentages in which connection some of the honourable members have suggested graduated scales. The honourable member representing Bombay (South) and sitting to my right (Dr. Dadachanji) has given us certain percentages. He says that those who pay rent over Rs. 200 should have their rents increased 50 per cent. and those who pay Rs. 100 and under should have their rents increased 25 per

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cent. I say such a graduated scale is doubly illogical. It is illogical to the landlord as well as to the tenants.

Dr. S. S. BATLIWALA (Bombay City, North): I am afraid I have been misunderstood by my honourable friend.

Mr. A. N. SURVE: More shall be given to them that already possess much. He says give higher percentage to the richer landlord and lesser to the poorer. Therefore, it is illogical as regards landlords. It is well known that persons drawing higher salaries have obtained lesser percentage of increase than persons receiving smaller salaries. In the Government service servants drawing higher salaries have received an increase of 30 per cent. and those drawing smaller salaries have received 70 per cent. increase. Therefore to say that those persons who have obtained a lesser percentage of increase in salaries should be made to pay more increase in their rents, and those who have received more percentage of increase should be made to pay less increase in their rents is illogical as regards the tenants.

The second suggestion placed before us is that the increase should be based on the number of years, *i.e.*, for the first year say five per cent., second year ten per cent. and the third year fifteen per cent. and so on. A scale based on annual increase will prove illusory because the Rent Acts will no more be necessary in the near future, and they will not fix the rents, but the law of demand and supply will do it when the single room tenements will come into existence. Therefore, a scale based on annual increases will not benefit the landlords.

Another thing that was said was that the Honourable Minister of Excise had in 1918 proposed a five per cent. annual increase. Even if we accept that scale, the increase in 1922 would—calculating from the year 1916—come to 30 per cent.

It was urged that the Honourable Mr. Pheroze Sethna had calculated the normal increase in rent in Bombay to be 2·7 per cent. I ask, Sir, can we say that we are living in normal times when the cost of living has increased nearly 70 per cent.? I submit, not.

What is the picture that is placed before us by the report? In the dissenting minute attached to the report of the Rent Acts Committee it is stated that in Bombay there are no less than 7,500 land-owners who get no more than Rs. 300 as rent per year. Sir, I wish to impress upon the honourable members the fact that 7,500 out of 16,000 land-owners in Bombay get Rs. 25 per month as rent. Out of this big (!) income of Rs. 25 a month they have to maintain themselves, they have to pay taxes and they have to incur expenses for repairs and they have to pay court charges when their tenants become unreasonable. I ask, Sir, is it fair that these 7,500 small land-owners should remain content with only 10 per cent. increase and that no more should be given to them? Who live in these houses owned by poor house-owners? It is the wage-earners that live in these houses, such as the millhands, and dock-labourers. Now, what is the percentage of the increase that these millhands and other wage-earners have obtained? They have demanded, at the point of bayonet and obtained one hundred per cent. increase. The dock-labourers have obtained an increase of something like two hundred per cent. and yet when the question of increase to these small house-owners comes some of my honourable friends here say that the small landlord should not be given any increase. Is it fair to say that and maintain it? I submit it is not.

Then, look at this question from the other point of view. The committee has worked out figures and it has stated that in 1916 the landlords got a return

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of 5·26 and if you give them 33 per cent. increase they will get only 6 per cent. return on their investment. Taking into account the high rate of interest that is given on Government securities and that is given by the banks, is it fair to say that the house-owners of these tenements should only get 5 per cent. on their investments and no more ?

The dissenting minute attached to the report of the Rent Acts Committee has mentioned that the landlords ask 66 per cent. increase but the bill proposes to give only 33 per cent. increase, and I consider that to be a very reasonable one.

Then, some point was made about the slump in trade. Well, Sir, if there is slump it is not the landlords who are responsible for it and after all it will be temporary and will pass away in a short time. Prices are going down and the increases already received by the tenants are not withdrawn ; therefore it will not be an unbearable hardship to them if the rent is increased by 33⅓ per cent. Sir, in a critical time the landlords have willingly accepted 10 per cent. increase when the cost of living was nearly doubled. Now the prices are going down, and so is it not the duty of the tenants to come to the rescue of these landlords and make them some amends ? The committee has said that landlords do deserve an increase and therefore no more need be said on that point.

Then, the other point is about sub-letting and I am glad that provision is made for it in the bill. Tenants use their own tactics. In a small room of ten by ten a man lives with his wife and a child. Then his brother comes with his wife and lives with him. If the landlord objects, he says " Oh, he is my brother. " Then his sister comes and thus the number of occupants goes on increasing. Now since the Rent Act has come into operation the landlord cannot eject the tenant though he creates overcrowding in the room. There is a clause in the Bombay Municipal Act whereby overcrowding in premises is prohibited but that clause is at present suspended. Municipal officers do not seem to take any action under it. So that clause of the Municipal Act also does not give any help to the landlord and the landlord is at the mercy of the tenant.

Then I would just like to make one more suggestion and that is this, that at present the tenants have been given protection so long as they pay rent. But some of the tenants are so very bad that they go on injuring the premises. Therefore my suggestion is that if a landlord proves that the tenant is guilty of destructive waste he should not be protected by the Rent Act.

Lastly the extension of the Act for two years coupled with an increase of 33 per cent. will satisfy the landlords to some extent. I think that the bill is an equitable compromise between the suffering landlord and the oppressive tenant and I heartily support its first reading and hope that this House will pass it.

Mr. C. M. GANDHI (Surat City) : Sir, I only wanted to speak on one matter in which I am interested. The Honourable the General Member in his opening speech admitted the propriety of the select committee considering whether such charity houses as are let to poor people ought or ought not to be exempted from the operation of this Act. I want to submit that the same consideration will apply to the cases of houses built by co-operative housing societies and which are let out on certain conditions arrived at under a given set of circumstances ; but circumstances having changed, the houses have cost more, and unless and until the societies are allowed to charge higher rents they will not be able to return the loans with interest. Conditions which would

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prevail with a Council like this in restricting rents do not apply in the case of co-operative housing societies, and I think that when the select committee meet they will also consider whether it is not proper to exempt co-operative housing societies from the operation of this Act.

The Honourable Mr. C. V. MEHTA: Sir, I wish to say a few words because the figures that I quoted in 1918 have been quoted again to-day, and it appears to me that there remains a certain amount of misapprehension as to what was the normal yearly rise of rents in Bombay in the fifteen years previous to 1916-17 as calculated by me and as calculated by the Honourable Mr. Sethna. I had the honour, Sir, of representing the municipal corporation on the old Council and I put before the Council the views that the Bombay municipality had arrived at after a close study of the figures which I placed before them. I will quote briefly those figures as I stated them in 1918, and I maintain, Sir, that my conclusions were correct and continue to be correct to-day. I made the calculation in the following manner. The gross valuation in 1902-1903 in Bombay city was Rs. 3,18,00,000. In 1916-17, that is, 15 years afterwards, it was Rs. 6,54,00,000, a rise of 105 per cent. That gave an average rise of 7 per cent. Out of that, two deductions had got to be made. One deduction on account of the increase in the total number of buildings in the city of Bombay, and another deduction on account of the increased accommodation that was provided by the new buildings that were put up on the estates of the Improvement Trust. In that year (1902-1903) the number of buildings in Bombay was 35,170 and in the year 1916-1917 it was 40,864, that is to say, a total increase of about 5,000 buildings. That means a percentage of 14. I further allowed a similar percentage—my assumption might be rather liberal—for enlargements to existing buildings. I took that as another 14 and allowed 28 per cent. in all for the rise due to the increase in the number of buildings and enlargements. I deducted that 28 per cent. from the 7 per cent. which had been the normal rise in the city of Bombay, and I arrived at the net figure of 5 per cent.

The difference between my calculation and that of the Honourable Mr. Sethna was this, that while the Honourable Mr. Sethna took the number of buildings in 1902-03 at a certain figure, he did not allow in 1916-17 for buildings that were destroyed under the operations of the Improvement Trust. Those destroyed buildings amounted to 8,172, and that naturally made a difference between 2·72 which he quoted and 5 per cent. which was the figure that I arrived at.

I now, Sir, would like to refer to some matters of considerable importance that have arisen in this debate. Incidentally I may say that I am entirely at one with the remarks made by the honourable member from Surat with regard to co-operative housing societies. I consider their case deserves special attention and I hope that it will receive special treatment at the hands of the select committee. Sir, another member from Bombay, representing the European community, who initiated the debate yesterday, mentioned to the Council that his analysis of the trouble in Bombay city was that it was due to the fact that there was no land available, or that such land that was available was very expensive. He also mentioned that the Improvement Trust were so grabbing in their tendencies that they refused a reasonable offer for a portion of their Worli estate. I do not wish to traverse the same ground in reply as was taken by my honourable friend from Bombay City, South, but it is necessary, Sir, that I should mention the exact facts of the case and the reasons why the

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Improvement Trust have been compelled to act in the manner in which they have done. I do so, Sir, with some knowledge of the facts, because the question was decided while I was a member of the Trust. It is perfectly true that the European Association offered a sum of Rs. 30 per square yard for a plot on the Worli estate. It is also true that it was very much less than the amount which could be obtained in the open market, considerably over a 100 per cent. less, for the particular plot. The difficulty arises in this way. If the Improvement Trust were to hand over their developed estate at cost price or at a reasonable profit, it is impossible to determine to whom this land should be sold. Suppose after development the land costs Rs. 40 a square yard and suppose the Improvement Trust were to charge only 10 per cent. profit and were willing to sell it at that rate, who is to get the benefit of the land which cost the Trust Rs. 40, if the market rate is say Rs. 75 ? Should private persons benefit ? Or is it necessary that such profit as does accrue should come back to the State through the channel of the Improvement Trust ? It is on account of that difficulty, Sir, that it is impossible to sell any plot of land except by auction and except by calling for tenders. But in the case of co-operative housing societies, where there is a limitation imposed that the rate of return to the members of those societies shall be limited to a certain reasonable percentage, namely 6 per cent., and where the members of those societies are only such as draw a small amount of salary or have a limited income, it is perfectly justifiable to give the land at below the market rate, and that has been done by the Improvement Trust in many cases to Parsi co-operative associations, Hindu co-operative associations and various other associations. The only trouble, and to my mind the great pity, is, Sir, that it is impossible to force the pace of the creation of these associations, and although the Co-operative Department is anxious to give all possible assistance and is willing also to give loans for the formation of such associations, they do not come into existence at the same rapid rate as we should like. There remains, however, the question of the quantity of new building sites and its effect on the price of all land, and I think the criticisms of the honourable member from Bombay were perfectly correct. I think if the Improvement Trust were to make a profit on the Worli estate, they ought to place on the market other estates where they do not make as much profit, and I mention this point advisedly for this reason that in the year 1920, about the end of 1920, two very large schemes for Bombay city were projected by the Improvement Trust in addition to the Worli scheme. One was the Dharavi scheme and the other was the Sewri-Wadala scheme, and I am sorry to say that the Dharavi scheme has been postponed. Although it has not been actually abandoned, it has been postponed, apparently because it does not show as good a result as the Worli scheme. I do not think that that ought to be the attitude of a public body, and I think the only way by which you will make an impression in reducing the cost of land in Bombay is by making as much land available for building as possible, and I trust that both the schemes will be pushed forward by the Improvement Trust and that all that land will be placed on the market, by which means they will bring down the price of the land. It is happening, I understand, with regard to the Dadar Matunga scheme of the Improvement Trust and so much has the price of the land been affected that I understand that plots of land which had been taken by the public at comparatively cheap rates have now been thrown up. If you want to deal with the housing problem in the city of Bombay satisfactorily, you have got to look at it from a much broader standpoint than by purely relying on the ephemeral effects of the Rent

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Act. The honourable member from Bombay City, North, stated that in his opinion in a very short time the question of housing in the city of Bombay would be solved. I am afraid, Sir, it is too optimistic a view to take and I do not see any likelihood of the question being solved in a short time. In 1919 the Municipal Commissioner made a calculation by which, in his opinion, no less than 64,000 tenements were required if the minimum housing accommodation in Bombay city were to be provided for. We are nowhere near the 64,000 tenements. And what is more, these tenements are purely single room tenements, and I do not think the House will give its approbation to the housing of our citizens in a great city like Bombay in single room tenements only. Eighty per cent. are single room tenements, they are most insanitary, and unsatisfactory. I look forward to the day, not in the very distant future, when single room tenements will be a thing of the past and at least two rooms will be provided for families to live in. If we are to place this ideal before us, then the housing problem appears to be more and more distant of solution. The point really is that, unless you make land cheap—and I have mentioned the way in which it is possible to do so—unless you bring down the cost of construction to which the Development Department is paying its attention, give more facilities for bringing in quantities of building materials, and unless you see that no unnecessary obstacles are placed in the way of construction, you will not be taking a reasonable step forward in this very difficult problem. The idea that if the new buildings are exempted from the operation of this Act, it is enough encouragement for construction of new buildings, I am afraid, is wrong. I will only point out this ; if in a locality there are old houses to which the Rent Act applies, and which pay rents on the basis of 1916 with whatever percentage of increase the Council may allow, so long as in the surrounding houses of that neighbourhood, the return on house property is low, and rent is low, how do you expect people to pay much higher rent for new buildings in that locality ? It is not enough inducement for construction of new buildings. I am sorry I have not got the figures of the new buildings constructed during the last three or four years. The rate of construction of new buildings is very much less than before. If that is so, we are getting farther and farther away from a solution of the problem. When Government paper was 3½ to 4 per cent., the return on house property was 5 to 5½ per cent. according to the report of the Rent Committee. The impression that landed property in Bombay is a bed of roses is entirely wrong. The owner of landed property in Bombay has to undergo a great deal of hardship and harrassment. If one were to make a choice between landed property and Government Paper with a clean return, he will unhesitatingly choose 6 or 6½ per cent. Government Paper free of income tax. These are economic factors which have to be taken into consideration, even while you settle the effect of Rent Acts. The honourable member for the European constituency in Bombay City deserves commendation for the fact that he has tried to look at it from a broad standpoint.

I will only add, Sir, lastly, for fear I may be misunderstood that the amendment I moved in 1918 which, however, failed to obtain acceptance, desired a yearly increase of 5 per cent. with a maximum of 25 per cent.

Major C. FERNANDES (Bombay City, South): Sir, I rise to support the first reading of the bill. There has been much agitation in Bombay ever since the bill was published. The popular view is that the Rent Acts should not be changed, but should be continued as they are for five years more at least. The subject was also discussed at a meeting

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of the municipal corporation of Bombay when strong comments were made on either side. One prominent member went the length of saying that the officials favoured this course as they were also tenants. Now this was a very uncharitable remark to make. The purpose of the Rent Acts and the present bill was and is, as the Honourable mover of the bill said, to meet an exceptional state of circumstances created by the war, and to prevent landlords from taking undue advantage of the scarcity of the housing accommodation. The unassailable point made by the majority was that we ought to look to the greatest good of the greatest number. But for the fact that this principle hits the landlords in the present instance, most of the landowners themselves would give their allegiance to it. In supporting the Rent Acts, the officials were only supporting a principle that we all value so very much, namely, the greatest good of the greatest number. As a landowner myself I am interested in all matters affecting the interests of the landowners, but that circumstance does not prevent me from taking the view that the tenants, in the present circumstances, require some relief. But the only question is to what extent the demand of the tenants could be conceded. As I have already said, the demand has come from influential quarters that the Rent Acts should be continued without any change for 5 years more. I dare say many honourable members here are prepared to support this demand on the principle to which I have just referred. But the honourable mover of the bill and some of the speakers who followed him have clearly shown that the landlords also have got a case. They have shown also that the majority of the landlords don't belong to the superwealthy but rather to the middle and poorer classes which include a good number of widows who are wholly dependent for their maintenance on the income derived from their properties. Appreciation of properties which ought to follow in the wake of increasing demand, has been barred by restricting the return by the Rent Acts, whereas no such restrictions have been placed on producers of and dealers in other commodities, joint stock companies and the like. Prices of building material and labour have gone up considerably. The only class on whose income restrictions have been put are the landlords. Owing to those restrictions the poorer class of landlords find themselves unable to meet the enhanced cost of living whereas the position of the wage-earning tenants has imp oved by the increment in their wages. Any unjust treatment of the landlords to favour the tenants will discourage capital being invested in landed property, which in the end must tell against the good of the tenant class. The Honourable Member in charge has told us, and I entirely endorse his view, that rents of office accommodation at present are quite reasonable owing to supply and demand being more or less equally balanced, and therefore the landlords of this class of accommodation are entitled to a free market.

Then the next class of property he referred to was the premises occupied by traders having their commodities in shops and small business premises. Considering the large profits this class of tenants make, I agree with him in thinking that this class also requires no measure of protection under the Rent Act. The accommodation intended for the wealthier classes also is at present ample. At any rate it is not less than what is required for that class, and the withdrawal of the restrictions in their case would not affect them adversely, and any increase that they might have to pay would be negligible, and could be easily

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borne by them. Now, the real class of tenants who need relief under the Rent Acts and the provisions made in the present bill are the classes comprised in the last class named by the Honourable Member in charge, namely, the poorer and the middle classes. These are the classes in which the largest increases in population recorded in Bombay have taken place and the accommodation so far available to them is woefully inadequate, and so it is very important that this class should be protected in some manner or other against any excessive increase in the rents they might have to pay. This is a class for whom all of us have our greatest sympathy and this is the class also in whose interests much of the agitation both in the press and on the platform has been carried on. The question now is how best we could meet the problem with regard to this particular class. Of course, whatever protection we might give to this class could only be of a palliative nature. The only real remedy against the evil is to provide more accommodation for them and to improve transport facilities. It is only then that we could hope to give permanent relief to this class. Until then, whatever we do would be only, as I said, of a palliative nature, and the special protection that we have given to this class of tenants so long might have to be continued indefinitely. This is of course a matter for the select committee to consider, and I have no doubt that an equitable settlement will be arrived at as both interests will be represented in the select committee. And the only appeal I wish to address to them is that they should approach the question dispassionately and in an impartial spirit and in a spirit of compromise.

Then, Sir, with regard to the question of sub-letting, enough has been said : so it is not my intention to trouble the Council with further remarks on that subject. I wish however to say one thing, and that is that a great deal of the abuses that have been referred to by some of the previous speakers is due to the power the tenants possess to sub-let. Premises that were never intended for a particular kind of use have been put to such use with considerable damage to property and great loss to the landlords, and tenants have been allowed to make large profits by sub-letting the premises. I think the sooner we put an end to this evil the better for all concerned.

There is one more consideration I wish to place before the house and that is on behalf of a certain class of landlords, namely, those who purchased or built and let premises after the first day of January 1916. The conditions that prevailed in 1916 and 1917 in no way differed from those that prevailed in the years immediately preceding, especially 1915 and 1914. There was great depreciation of trade owing to the stress of war being felt most in those two years, and there was a great exodus from the city owing to this cause as also to the scare caused by the German battleship "Emden." So instead of the tenants being charged more rents in those years, in some instances the rents charged were less, because many premises had remained vacant, and for a long time. The Rent Acts fixed the 1st of January 1916 as the date after which no houses built or let could get the benefit of the 10 per cent. increase. I feel, Sir, that for the reasons I have mentioned the houses that were built and let after the 1st day of January 1916 ought to be placed in the same category as those that were built or let before 1st of January 1916. The real increase of rents took place about the beginning of 1918, owing to the large profits that people then began to make, and also to a number of joint stock companies and other business concerns having been floated at that time. I would therefore ask the members of the select committee to give this matter their serious consideration and see if they could not put these buildings on the

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same footing as those that were let before the 1st of January 1916. The landlords of these premises have not been in my opinion treated fairly inasmuch as they have been deprived of the 10 per cent. increase on the rents, and I think it is unfair that they should be allowed to continue under the same condition.

There is one more point about which I wish to make a few remarks before I resume my seat, and that is the question of expediting the disposal of the suits of tenants or landlords regarding rents. At present there is considerable delay involved in the disposal of these suits, and I think it would be a great advantage if the Rent Controller is invested with larger powers to deal with these cases, so as to avoid unnecessary delay and expense. As suggested by the committee appointed to enquire into the working of the Rent Acts, I think the Rent Controller ought to be a lawyer of great experience and ability. Under the present Act, the tenants are provided with the remedy to get a refund of any excess of rent that might have been charged by the landlord. But unfortunately the landlord does not possess any remedy against profiteering by tenants at his expense. I think some provision must be made in the new bill that is before us with regard to this anomaly. There is also another class of landlords in the case of whose building an old tenant leaves a tenement and a new tenant comes into his place. In such a case, I think there ought to be provision made as regards the landlord whether the property has been newly built or sometime before the old tenant left. There is no differentiation made in a case where the tenant leaves of his own accord and the premises become vacant and a new tenant comes in. I think it is only fair to those landlords to have that made clear in the bill.

Before I conclude, I have only to say that the case of the poorer class of tenants ought to receive the greatest consideration at the hands of the members of the select committee. With these words, Sir, I beg to support the first reading of the bill.

Khan Saheb HAJI HAZRATH KHAN MOHIDINKHAN (Poona and Sholapur Cities) (Addressed the House in Urdu): Sir, the suggestion that small landlords should get only 5 to 10 per cent. increase when others who have invested their money in other businesses have been making 25 to 50 and even more per cent. profit on their money, does not at all seem to me fair. How do you expect such small landlords, some of them Mahomedan widows depending chiefly upon the rents, to eke out their living and meet other necessities of life ? I therefore think that the Rent Acts should not be extended after they expire in 1923.

Mr. B. V. JADHAV: Mr. President, many speakers have said.....

The Honourable the PRESIDENT: The word "speaker" has a technical meaning, therefore when referring to honourable members who have preceded a member, that member should in referring to them say "honourable members who have already spoken".

Mr. B. V. JADHAV: Some of the honourable members who have already spoken have described the pitiable condition of poor landlords and I need not say anything further on that question. I have simply to say that I find that everybody has urged the passing of this bill which will give them a rise of 33⅓ per cent. I see that landlords have already got a rise of ten per cent. over the rents of 1916. This scheme is based upon the report of the Rent Committee which was made according to the conditions prevalent a year ago. Many changes have taken place since it was written a year ago and the prices are going down, and therefore I think that a rise of 33⅓ per cent. is not necessary

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according to the present-day conditions. There ought to be some rise I cannot deny, but to claim such a large rise for the landlords will surely be a tyranny upon the poor tenants whose number is very large. The honourable Maratha member for Bombay City (North) said that overcrowding was being practised on account of the permission to sublet and that that was the great grievance, according to him, of the landlords. But I must say that this overcrowding was not indulged in by the poor tenants to inconvenience the landlords, but it was made quite necessary because the rentals were so high that one tenant could not out of his own income pay those rents and he had to take in a partner simply to lessen the burden of the rent he had to pay. So, if according to the scheme now the higher percentage of increase in the rental be allowed, it will, I am afraid, lead to more overcrowding because the poor tenants will not be able to pay the rental *plus* the rise that will be allowed and therefore this will perforce lead to more overcrowding and more misery. This Council ought to take this into consideration and the select committee should, I think, take into consideration the conditions of the poor tenants and see that they are not improperly harassed. With these words I beg to accord my support to the first reading of this bill.

Mr. D. B. DALAL (Panch Mahals District): Mr. President, I think I need not speak on the various points which have already been touched upon by the honourable members who have previously had their say. I feel sure that the House will go with me when I say that this Act should not be repealed at this stage when there is acute shortage of houses specially in Bombay and I further say that the same conditions will prevail at least for five years or more specially when the Improvement Trust is profiteering as stated by the honourable member from Bombay and when destructive works are being carried out by the Development Department. A legislation of this sort is quite essential to protect poor tenants from the profiteering of landlords by demanding exorbitant rents. At the same time, Sir, I quite realise the fact that charitable institutions are suffering on account of this present Act. At the same time also, tenants are taking undue advantage and derive profits through sub-tenants, but this defect and others as pointed out by the honourable member could be easily remedied by the select committee. So I think that the House will be well advised to send this bill, by passing the first reading, to the select committee whose work will be to do justice both to the landlords and to the tenants by examining the different remarks and suggestions made by honourable members of this House.

Mr. B. P. PATEL (Ahmedabad District): Mr. President, I rise to support the first reading of this bill. In my humble opinion the poor and homeless creatures thronging to the second city of the Empire must be enabled to secure a roof over their heads before they are able to do anything as citizens. The period of this Act should be at least five years, *i.e.*, until the Development Department is able to provide more houses for the lower middle classes such as mehtas, clerks, and so on. With these few words, I support the first reading of the bill before the House.

Mr. F. NELSON (Bombay Chamber of Commerce): Mr. President, I move the closure.

The Honourable the PRESIDENT: I accept the closure.

The Honourable Sir CHIMANLAL SETALVAD: Mr. President, we have had a lengthy debate on the motion for the first reading of this bill and while

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I wish time had been economised in the manner it could have been, I still welcome the various suggestions that have been made in the many speeches that we have heard on this motion. I may assure the House that the suggestions made by many honourable members who have spoken will certainly be very helpful to the select committee when they proceed to consider the bill. I do not propose to take any length of time in my reply, as we have a very heavy agenda before us and it is very essential for every one of us to make an effort to economise time as much as possible. I would, however, refer to one or two matters of prejudice that were introduced by some of the members who have spoken. My honourable friend, the nominated member from Bombay, representing the mercantile interests, gave currency to a rumour—all the time professing that he did not believe in it as he said, still he chose to give currency to that rumour—that Government were bringing in this bill because they were becoming large landlords themselves and that, therefore, they were bringing in this bill in the form in which it was presented to this Council. Now I assure the House that Government had no such sinister object in bringing in this bill at all. The honourable member possibly did not know that so far as Government are concerned—assuming that they at all contemplate becoming landlords in the sense of owning premises to be let out to tenants, which they have no intention of doing—the Rent Act does not bind Government. It has been ruled by the High Court that the Crown not having been mentioned in the Act is not affected by the Act. Therefore, no selfish motive can be attributed to Government in bringing in this bill. Further, the fact really is that the Government are more largely tenants in many places than landlords and they themselves have, as honourable members will remember, been obliged to pay very heavy rents in various places for their office accommodation. Therefore, any insinuations made against Government that they have any interest in common with house-owners are without any foundation.

I will not, Sir, notice the personal references made by the honourable member representing the Mahomedan community of Bombay, personal references to me as regards my deeds or, according to him, misdeeds in another capacity. I can only say that those remarks were entirely uncalled for and unjustifiable. If the honourable member had really cared to study the real facts about the matter, he would have seen his mistake, and I will not take any further notice of remarks of that character, which I submit ought never to have been made in this House by any honourable member.

Then, Sir, the honourable nominated member representing the commercial interests of Bombay—I am sorry he is not here to-day to listen to my remarks—I confess I have not been able to follow him in his reasoning. I am not able to gather yet what his view is with regard to this bill. He started by saying, if I followed him correctly, that the Rent Act of 1918 ought never to have been passed. He described to us what bitterness the Rent Acts had created between landlords and tenants, and still having said that, he seemed to indicate that nothing further should be done in the way of amending the Acts at all. So that, his position was this that, though he was of the view that some of the provisions of the original Acts had resulted in bitterness between the landlords and tenants, we should perpetuate that state of things and not make any attempt to remove the causes of that bitterness. That is what this bill attempts to a certain extent to do and still the honourable member would have none of it.

The Honourable the PRESIDENT: I rather gathered that his argument was—I have nothing to do with the merits—I mean fairly representing him—I rather gathered that as this bill was to expire soon it was not necessary to repeat legislation of this sort or something like that. I may be wrong, but that is what I thought.

The Honourable Sir CHIMANLAL SETALVAD: I do not think, Sir, that can be an accurate representation of what he said, because in that case I should have expected him to say that we should not do anything at all; but he went on to argue that the landlords had really no cause for complaint, that they were getting the ordinary return that they ought to have. I may be quite wrong, because his remarks, as also any conclusion that he might have meant to indicate, were so difficult to comprehend.

The Honourable the PRESIDENT: I merely said that that was my impression. You are perfectly entitled to put that construction upon his speech as a whole. I interrupted you merely because it is my duty to see that any honourable member's speech is fairly represented.

The Honourable Sir CHIMANLAL SETALVAD: I won't attempt any further to criticise the remarks of the honourable member because my complaint about him is that I was not able at the end of his speech to gather any constructive suggestion from his remarks at all.

Then, Sir, I would say a word with regard to what the honourable member representing the European community in Bombay said about the real bearings of the housing problem in Bombay. I quite agree with him, Sir, that all these measures like the Rent Act are merely temporary measures and that the real remedy is no doubt to provide necessary house accommodation in Bombay to keep pace with the demand. As has been said by one or two honourable members, every effort is being made in that direction by Government and the Improvement Trust and other bodies that are co-operating in that direction. I will refer, Sir, to one observation of that honourable member, to which I think a reply has to some extent been given already by the Honourable Minister for Forests and Excise, namely, the complaint against the Improvement Trust. He said that the Improvement Trust were profiteering and were giving to the public lands not at reasonable and cheap rates but at very exorbitant prices. Now, Sir, it is very easy to lay a charge of that kind against the Improvement Trust. If the honourable House will analyse what it means, they will see that if the Trust were not to do what is called profiteering and were to give lands at say cost price or a little bit over cost price, so long as the market value of land is much higher than the cost price, the result will be that the man who takes that land would profiteer. The man who takes the land for Rs. 30 or Rs. 40 per square yard from the Improvement Trust can straight go and sell it at a higher price, so that the intermediate person will profiteer. But if there is to be any profiteering in that manner, surely it is much better that the general community should benefit by the rise in value and not the private individual. The real remedy, therefore, is not to ask the Improvement Trust or bodies like that to produce land and give it at cost price or at a little over the cost price; the real remedy is to produce such large quantities of lands available for building houses and so flood the market with those lands that the market value will come down to a reasonable figure. Then alone it will be possible to produce more houses at reasonable rents in Bombay. Now, that is what the Development Department

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have undertaken to do and they are pushing their operations with as much speed as is, in the circumstances, possible, and when those operations fructify and when you have lands put in the market in such large quantities that the prices must come down to a reasonable figure, then alone the problem of housing in Bombay will be solved. In the meantime, Sir, Government have and the Council have to adjust matters by legislation in such a manner as to work equitably and justly to all the interests that are affected by such legislation, and the present bill is an attempt, Sir, to reach that result. As I said in moving the first reading it is possible that on various matters arising on this bill, there will be differences of opinion and the task of the select committee will be, as far as possible, to adjust those differences of opinion and arrive at a workable arrangement which will serve the original object of the Act and also remedy the defects found in the working of the Act and arrive at an equitable result as between the house-owners and the tenants and the other classes affected.

Bill read a first time. Question put and agreed to.

The Honourable Sir CHIMANLAL SETALVAD: I now beg to move, Sir, that a select committee consisting of twenty members, with a quorum of five, be appointed to consider this bill and report within a month.

Question put and agreed to.

The Honourable Sir CHIMANLAL SETALVAD: I now beg to move that the select committee do consist of the following members:—

Mr. Purshotamdas Thakurdas, Dr. K. E. Dadachanji, Mr. G. B. Trivedi, Dr. S. S. Batliwala, Mr. D. J. Ferreira, Mr. Kanji Dwarkadas, Mr. A. N. Surve, Mr. S. K. Bole, Mr. Ibrahim S. Haji, Mr. M. A. Havelivala, Mr. J. Addyman, Mr. G. H. Kassim, Mr. Dipchand T. Ojha, Mr. C. M. Gandhi, Rao Saheb Harilal D. Desai, Mr. G. Findlay Shirras, Dewan Bahadur K. R. Godbole, Mr. J. C. Ker, Mr. J. B. Kanga and the mover.

Bill referred to a select committee. Question put and agreed to.

*After recess.*

The Honourable the PRESIDENT: Order, order.

## A BILL TO PROVIDE FOR COMPULSORY ELEMENTARY EDUCATION AND TO MAKE BETTER PROVISION FOR THE MANAGEMENT AND CONTROL OF PRIMARY EDUCATION IN THE BOMBAY PRESIDENCY (BILL No. XVII OF 1922).

First reading. The Honourable Dr. R. P. PARANJPYE: Mr. President, I have great pleasure in moving the first reading of Bill No. XVII of 1922 (A bill to provide for compulsory elementary education and to make better provision for the management and control of primary education in the Bombay Presidency).

Mr. President, I claim that the bill I have the honour to introduce before the House is of a very important nature. The cry for the extension of education is not new. Public men of this country have long recognised the need for a wide extension of education. Over ten years ago, Mr. Gokhale introduced a bill in the Imperial Legislative Council to give an option to local bodies to introduce compulsion in their areas if they chose. At that time, the bill was not passed; the opinion of several local Governments was against it, and it was

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thought that it was too far in advance of the times. But in spite of the slowness with which it is supposed to move, our country has moved comparatively faster in this direction. This Presidency has had the unique honour of having a bill of this nature passed about four years ago, and the measure was known as a bill to introduce compulsory education in the Presidency, and shortly known as Patel Act. That Act was passed four years ago. But unfortunately not enough advantage has been taken of that Act, mainly because the Act was merely of a permissive nature. But it has marked a beginning, and the Bombay Presidency has had the honour of imitation in many other provinces in this country, and several other provinces have now a measure of this nature on their statute books. If the Council will pass this bill, we shall continue to keep up the reputation of this Presidency as one that shows the way to other provinces, because this bill proposes to take a further step, an important further step in the same direction. As you will remember, the Patel Act and similar measures in other presidencies allowed compulsory education to be introduced only in municipalities and that too only if a municipality wanted to do so. Secondly, there being no compulsion so far as local bodies are concerned, advantage was not taken of this Act, except by a very few municipalities. At present there are only five or six municipalities that have introduced compulsion in their areas. The first of these is Bandra in Salsette which introduced compulsion both for boys and girls, and next was Surat. I need not refer to the imbroglio in which education in Surat has been for the last year or two. Other municipalities like Satara and Dhulia (which has recently been allowed) have introduced compulsion. This practically exhausts the whole list. There is one other municipality, Dakore in Kaira district, which asked for permission to introduce compulsion, but which only last month or so applied for the withdrawal of this compulsion, because it could not afford it; and the Government had to reluctantly allow it to withdraw. This then has been the actual effect of the Patel Act, which was passed only four years ago; so that, although the principle has been accepted, the working of the principle has not been carried on to any considerable extent. But in the meanwhile, and particularly on account of the wide awakening, on account of the war and the constitutional reforms, the cry for compulsory education, which was ten years ago practically confined to the leaders, has now begun to come from the classes immediately affected by it. It is particularly pleasing to find that in the Marathi and Kanarese speaking parts of this Presidency especially, the demand for compulsory education has been very strong indeed. They very rightly realise that their progress is bound up with education and that they cannot rise in the social scale, and that they cannot hope to improve their economic condition, without a wide diffusion of education among those classes. I say the demand is quite reasonable and that it has made the path of Government comparatively easy. The Government have to meet this very reasonable demand from the classes specially affected, and they feel that it is necessary to go forward in that direction. As His Excellency remarked in the opening speech he made to this Council, it is really a very daring step to take in the present position of the finance of this Presidency. Still, I feel that the step has got to be taken in spite of any sacrifice that we may have to make; and it is, therefore, that I have ventured with the full concurrence of His Excellency's Government to bring forward this measure for the consideration of this Council. The question is a very large and complicated one, and I do not think that the Council will blame me, if I have taken a year and nine

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months, after assuming office, before I am able to introduce a measure of this character. A large amount of study of various details had got to be made. Conditions, not only in one town or in one district, had to be investigated, but conditions all over the Presidency, and especially of a Presidency like ours in which different parts vary enormously from each other. What might apply to a district in Deccan or in Konkan might not apply to a district in Gujarat, and much less to a district in Sind. All these things had got to be investigated, and proposals had to be formulated, which would apply fairly to all parts of the Presidency. Consequently, early after the constitution of this Council, I appointed a committee of the members of this Council to go into the question in detail and report upon it. I have had the very inestimable privilege of seeing you, Sir, accepting the position of the chairman of that committee. (Cheers.) The Committee went thoroughly into the difficult question and have submitted a very valuable report on which, I am sure, any future schemes of expansion of primary education not only in this Presidency, but to a great extent in other presidencies also, will depend. That report will be taken as a basis of proposals for this purpose in all parts of the country, and I think the members of this Council will agree with me when I say that their consideration of this question has been greatly facilitated by the very lucid report that the committee has placed before them. The bill that I have the honour to move before this Council seeks to give effect, so far as legislation is required, to the recommendations of that committee. The committee in fact has gone into all the details about this question, legislative and administrative. In this Council we have only to consider that part of their report which has reference to legislation and in the bill I have tried to incorporate those of their recommendations as far as it seemed proper to me to accept those recommendations, and the bill gives the framework in which all the details can be fitted up.

The main points in this bill are two: one is to make provision for the introduction of compulsory education, and the second, to a certain extent subsidiary, but also of a very important nature, is to make certain changes in the administrative machinery of education in this Presidency. The second part would not have been necessary unless we had decided to accept the first part. Sir, the most important part of this bill is to go ahead with the introduction of compulsion in all parts of this Presidency. As I have already mentioned, the Patel Act only gave permission to municipalities to introduce compulsion in their areas if they liked. I have already told you what the effect of the Patel Act has been. We find that the effect has been very small indeed. Although the principle has been once for all accepted, we feel that it is not possible now simply to depend upon optional compulsion, so to say, and to confine it only to municipal areas. The present bill has reference not only to municipal areas, but also to all local board areas, and therefore covers the whole of the Presidency except the city of Bombay. The city of Bombay, so far as education is concerned, is covered by another Act altogether, and therefore has been left out of the purview of this bill. But barring the city of Bombay this bill has reference to the whole of the Presidency, the people residing not only in municipal areas but in local board areas. Then, again, we do not leave to the municipalities the option to introduce compulsion or not. While in section 8 we leave to local bodies the option of making the first move, the option of making a scheme for themselves and asking Government to sanction it, we have not stopped at that: though in fact we believe that for a short time at any rate that part of the section will remain practically only a devout hope, what we intend is that according

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to the second part of that section Government will call upon any local body to make a scheme of compulsory education; and if that body does not make that scheme Government will appoint its own officers to make a scheme and ask the local body to carry it out. The local body may still perhaps be recalcitrant. Government will not stop there: Government will appoint an officer of its own to carry that scheme through even if the local body does not want it, and we will compel the local body to contribute its quota to the expenses of the scheme. You will find therefore that according to the clauses of this bill, it is not left to the local body to introduce compulsion, although we devoutly hope that many local bodies will come forward of their own accord to do so. But we feel that the introduction of compulsory education is so vitally important to the progress of the people of this Presidency that Government must have power to take the initiative themselves and compel the local bodies to go ahead in this direction. Thus section 8 gives power to Government to ask local bodies to introduce compulsion and to make a scheme. The clause relating to default, clause 24, will prove to you that Government is in deadly earnest in this matter of introducing compulsory education. In the former bill, the Patel Bill, because it was a very new measure and not tried before in this Presidency, there were certain conditions laid down as to how a scheme should be made and how a scheme should be passed, and we in fact under that bill required that, when a scheme is to be made, it should be passed by the local body with a two-thirds majority of the members voting and an absolute majority of the total number of members of the local body. All these conditions have been given up. A local body by a simple majority can now come forward and say that they want to introduce compulsion and that they want a scheme to be sanctioned. Honourable members will find therefore that if the machinery of this bill is acted upon properly then no further legislation, at any rate so far as this principle of compulsion is concerned, would be necessary. The Patel Act has been followed in certain of its clauses. So far as the details of a scheme and certain other provisions are concerned, the legislation was already there and we have followed several of the sections almost word by word. Thus for instance, when we ask for the making of a scheme we want various details. I may just mention a few of these details. First of all we must know the number of children in a local area, or in the part of a local area that have to be brought under any scheme. Now, I might mention a few points in which this bill differs from the report. One point is the question of the age limit. The report recommends that the age limit for compulsion should be 5 to 10: in the bill you will find that the age limit is 6 to 11 according to the Patel Act. However, on these and various other details that I shall explain to the Council, I do not assume a *non possumus* attitude. I shall be guided in all fairly minor details,—of course the essential framework must be there—but in all details, even of a comparatively important character, I shall be guided by the opinion of the select committee and of the Council. If therefore the select committee and the Council come to the conclusion that the age limit 5 to 10 is better, well, I leave the decision on that point to the Council, although personally I feel that the age limit 6 to 11 is on the whole better, because it is desirable to let the children grow up and have an easy time of it before they are compelled to go to school. Then the making of a scheme requires a census of the children, and you will find in section 9 that when we ask a local body, or when we ask a Government officer in case of default, to take a census we want various details about the children who will have to be educated. In this Presidency of course difficulties about languages, about

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communities, are bound to arise, and therefore the census must give us details about the various communities from which children are drawn, the various languages which the children speak at home and in which schools have to be provided. All these difficulties accentuate the complicacy of our measure, but having regard to the practical circumstances of the case they have got to be provided for.

Then we shall have to provide a sufficient number of schools, which we can ask the children to attend for their education. Now, there may already be a certain number of schools in any area in which we desire to introduce compulsory education. There may be public schools, or local board schools, or occasionally a Government school. Then there will also be aided schools or even recognised schools. But in order to carry through any scheme of compulsion, new schools may have to be opened, and in making any scheme, all the necessary details about such a scheme will have to be properly investigated and properly made up.

Then there is the provision for finance. If a local body moves of its own accord and makes a scheme, it must see how it is going to provide for the expense of education. I shall speak more about finance directly. Then there are provisions about exemptions and reasonable excuse. Most of them are copied from the Patel Act, and honourable members will find that they are generally reasonable.

Then there is already a provision in, I believe, clause 23 which enables particular classes in an area to be exempted from the operation of the Act. We do not wish to get the scheme broken on any communal differences. Occasionally, certain classes will have to be exempted. For instance, in Sind, if in any local board area the majority of the people are Mahomedan and the only school which it would be possible for the children to attend is a Mulla school, it might be necessary to exempt the children in the two or three Hindu families that may be residing in the village from attending that school. It may be necessary occasionally to exempt two or three Christian families living in a village or a small town, because their native language may be English and there may not be English schools. What I want to say is that such cases will arise, and in the beginning of a scheme like this it may be necessary to exempt particular classes, although I should be very glad indeed if such difficulties did not arise.

Then there are clauses about penalties, both for not sending children to school and for employment of children who are of the compulsory age, so as to prevent their attendance at school. The report proposed that the penalty for non-attendance should be Rs. 5 and Re. 1 per day for continued non-attendance. I want to go rather slowly, and you will find that these figures have been much reduced in the bill. So far as the penalty for non-attendance is concerned, I have made the maximum penalty Rs. 2, and in the case of continued non-attendance after conviction 8 annas per day. On the other hand the fine to be imposed for the employment of children of school-going age has been fixed at Rs. 25, because the people who employ these children would be educated and they would know that they are acting illegally in that matter.

Another point on which the bill does not accept the conclusions of the report is the question of the person who is to impose these fines. The committee reported that these fines should be imposed by a local body. The bill, on the other hand, says that the people before whom cases of this nature can be taken are either magistrates of any class, if there are any such in the area, or a patel,

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or any other person appointed by the District Magistrate. Now, it might be worth while explaining to the Council why we have made this change. You will find that in any village where the compulsion clauses are to be operative, an attendance committee or an attendance officer will have to be appointed. Two or three persons will have to be given the duty of seeing that the children do actually attend the schools. Now, in a small village it is not possible to get a large number of people who would be able to do all this work, and if there are three men for the purpose of seeing to the attendance, and prosecuting parents for default, you cannot ask them to inflict the fine also, because it will mean that the same prosecutor would also convict. I believe the Council will not accept a principle according to which the person who prosecutes anybody for non-attendance of the children will also have the power to fine. The question as to what officer is to be assigned this duty in each village is rather difficult. There is no Government officer of sufficiently high standing in every village. After all, there is only the patel, and the Council has expressed the opinion in the last session that these patels are a class of men who are doing work of a very responsible nature on a comparatively small remuneration. In some villages it may be possible to appoint another person of a sufficiently important standing, intelligence or education who may be entrusted with this work, but at any rate somebody of standing has got to be appointed for the purpose of inflicting these penalties. If there is a magistrate, well and good.

Again, in order to safeguard the parents against the abuse even by the patel of the powers which are going to be entrusted to him, we have allowed an appeal to the nearest magistrate, but in the case of a magistrate we have not allowed any appeal at all. I hope the Council will be able to accept this change from the recommendations of the committee, but in any case I shall be glad if the Council or the select committee were to propose another and better method for the administration of these penalty clauses.

I next come to the question of finance which, after all, is the most important in connection with any scheme for the wide expansion of education, or a scheme of compulsory education. At present, the financial positions of the municipalities and that of the local boards differ entirely from each other. In municipal areas Government contributes one-half of the expenditure, and the municipality contributes the other half, the management of the education being in the hands of the municipality, subject to a certain amount of control from the Education Department. On the other hand, in local board areas the position is entirely different. In local board areas, the schools practically are Government schools, and the Education Department does everything about the management of education, and seeing that it does this, the local board does not find it necessary to meet all the expenditure in connection with these schools, except for the small contribution they give for the purpose. In the present Local Boards Act, one-third of the income from the anna cess is reserved for educational purposes, and practically that is all the contribution that the local boards make for education in their areas. The result is that whatever expenditure might have to be incurred on primary education in local board areas, the local boards themselves do not contribute anything above this one-third of the anna cess and all the other expenditure is to be met by Government. In recent days considering the increased expenditure on primary education, the local board contribution has remained constant while the Government contribution or the

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Government part of the expenditure has risen very considerably indeed, so that at the present moment, taking the Presidency as a whole, for primary education the local boards spend only about 12 per cent. and the Government spends 88 per cent. And consequently, if the position were to remain as it was, every pie extra required for education on the present basis will have to be met by Government. This bill proposes that in the larger municipalities which will be henceforward allowed to manage and control their own education, the scale of grant from Government will be one-half—so far as the Act lays down it would be one-half—and the grant to local boards will be two-thirds. I might at once point out that if we were to act strictly according to the letter of this section from next year, we should be reduced to an absolutely impossible position. At present we spend 88 per cent. If therefore we ask local bodies to change their contribution from 33⅓ per cent. all the new resources which are to be given to them according to the Local Boards Act would be eaten up and more than eaten up in finding the remaining 21 per cent. What is intended in fact is this, that the present grants that are being given to the district local boards are not to be reduced (Honourable Members: Hear, hear) and the scale of ½ and ⅔ will be applied to the new expenditure that will have to be incurred in the expansion of education on optional basis and the introduction of compulsory education. I give an illustration; suppose at present we spend Rs. 100 after education in a village. Out of that, Rs. 88 are spent by Government and Rs. 12 by the local board. Suppose by any measure of expansion or compulsion, this Rs. 100 becomes Rs. 200. Of the new Rs. 100 Government will find 66 or 67 per cent. and the local body will find the remaining 34 or 33 per cent., and now Government will spend Rs. 88 *plus* Rs. 67 that is, Rs. 155 and the local board will spend Rs. 12 *plus* Rs. 33, *i.e.*, Rs. 45, so that you will find that on this basis we propose that the burden on the local body will be one-third so far as the new expenditure is concerned, and Government will continue to give the grant on the old scale to local boards on the present expenditure. Of course, if the increase were to be infinite, we should have later on approximately a situation in which the local body would contribute ⅓. But of course it is not going to be that. Still we understand that the position of the local bodies will be absolutely impossible if this clause is to be worked out to the very letter. You will also find that that clause has reference to the cost of any scheme of compulsory education and therefore should not have given rise to needless apprehension. I hope that with the explanation given to you of that clause and of the intentions of Government there will be no further carping criticism about the finances of this bill. After all, a large proportion of the educational expenditure of local boards will be met by Government; two-thirds certainly, nay, in the illustration I have given, Rs. 45 out of Rs. 200; practically rather more than three-fourths in the state of things when the educational expenditure is doubled. You will find there that the new burden that we cast upon local bodies will be of course a fair amount but not an amount which they will never be able to bear. We expect that the whole programme as outlined in this report will be carried out in ten years and during the course of ten years, as you will find from the figures presented in this report, the local bodies will have to find about 33 lakhs of rupees, 13 for the municipal areas and 20 for the local board areas. I really do not feel that the Council believes that this amount of additional burden is too heavy even for the local bodies to bear. It is of course a burden, but if we are keen upon the expansion of education, I do not feel that anybody in this Council

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or any intelligent person outside this Council will grudge to bear a burden to this comparatively mild extent.

I have spoken about some clauses of this bill. I shall now go into some of the other changes that are necessary in order that this bill should be properly acted upon. A certain number of administrative changes we feel are absolutely necessary if the principle of this bill is to be carried properly into effect. At present the scheme of educational administration is this. In municipal areas each municipality has got a school committee of its own which is supposed to manage its own schools subject to certain rules of Government. In the local board areas the schools are entirely managed by Government, but when we mean to embark upon a scheme of compulsory education, you cannot do all this merely by Government agency; you have got to get the help of local agency in order to carry the scheme through properly and efficiently. It is proposed therefore to give a wider educational autonomy to local bodies. We propose to make rules under which local bodies will be invested with the task of managing their own education subject of course to certain general powers of supervision and control, but the detailed control, the detailed administration which the Educational Department has been so long undertaking, will be stopped soon after this Act comes into operation. In fact the sections regarding administration are to a certain extent a devolution of power from the Educational Department to the local bodies in educational matters (Hear, hear). Now in order that this devolution should not spell inefficiency, you must obviously ensure that the population which the local authority is to provide for, that the areas over which the local educational authorities are to act, should be comparatively extensive. You cannot ask a municipality with a population of five or ten thousand to manage its own schools entirely, for they may have occasionally to make with the sanction of the Educational Department changes in their curriculum, they will have to see to the employment of teachers, giving their employees fair prospects of promotion and so on. All these things are absolutely impossible if the domain is too small. You must have in fact fairly large areas over which any one educational body should have control. It is proposed therefore that these educational administrative areas shall be of comparatively wide extent. At present, the municipalities are divided into city municipalities and town municipalities. There are at present altogether 157 municipalities in the Presidency. Out of these 33 are city municipalities. The city municipalities have somewhat wide powers. Even these 33 municipalities contain several which are very small that will probably find that it is not easy to manage their own education by themselves. The other municipalities certainly will not be competent to manage their education by themselves. I expect that it would not be ordinarily feasible to have independent educational units in those municipalities which have a population of less than 50,000 persons. Of course I am not going to lay down a hard and fast rule; if any municipality is particularly keen on managing its education and gives assurance that it will satisfy all the rules that will be made on that behalf, probably Government will not come in their way; but we expect that for these smaller municipalities it will not be in their own interest to manage their own education. Take for instance the question of teachers which indeed is most important in connection with education. In order to be able to engage teachers of proper calibre and to give them proper prospects of promotion you must have a comparatively large cadre of teachers so that they may have a proper opportunity of promotion. You cannot do that in smaller municipalities. There may be ten or fifteen teachers

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in each of such smaller municipalities and it is not possible for them to provide for their proper promotion. Again we expect that with wider powers of education they will have the power to appoint their own administrative officers who will have to supervise the work of their schools in their local area and who therefore must be fairly superior in calibre and qualifications. All the municipalities will not be able to pay their educational administrative officers sufficiently well in order to secure such superior administrative officers of schools. It is therefore expected that the smaller municipalities will not be able to do all this work themselves. I believe the Council will agree with the principle that educational autonomy is perfectly sound in its intention and in order to carry this out we shall have in future large city municipalities which will manage their education and district local boards for the parts where we have these smaller municipalities. Then the smaller municipalities will henceforth be relieved of the management of their education and will for educational purposes be merged in the district local board. What about their contribution for educational expenses, I may be asked. At present you will find that the continual complaint of these small municipalities is that they are unable to meet the cost of education on account of increased cost of teachers. When we force upon them the further duty of introducing compulsion and therefore going in for much larger expenditure on education they will absolutely break under the task. We therefore expect that while they will be asked to give up their educational control they will be treated more favourably in financial matters. At present they pay half and when they come under the local boards their contribution will be about one-third. So that to a certain extent they will be relieved at least in part of their financial responsibility. On the other hand, in order to assess their responsibility properly we shall probably make rules by which their financial responsibility will be assessed on a capitation basis. If they get a certain number of children from the municipal areas going into schools they will be asked to contribute so much per head per year. In this way all complexity about financial relations will be removed. On the other hand, in order to manage their education properly we shall expect the local boards, the district boards and the municipalities to have a proper machinery for this management. At present you will remember, you know quite well, that our present local bodies are elected for carrying out certain varied kinds of public duties, making of roads, looking after sanitation, markets, and you now devolve on them education in addition. A man who is selected for the general qualification will look to the interests of the people so far as sanitation and such other matters are concerned but he will not be necessarily competent to look to education as such. You will find very often even in municipalities that although there exist school committees at present, several times elections to school committees are not made from the educational point of view only. (An honourable member: Hear, hear.) We propose therefore henceforth to have educational affairs managed by a subordinate body which we call the school board. And this school board will have final powers of educational administration so far as details are concerned. The school board will of course remain a subordinate body of their local authority. But just as the standing committee of the Bombay municipal corporation has certain independent powers, as the syndicate of the university has certain independent powers although it is subordinate to the senate of the university, similarly we want the school boards to have certain independent powers, while the wider policy might be influenced and to a great extent even prescribed on the one hand by the local authorities and on the other hand sometimes by

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Government if the local authority does not look after it. And you will find that in order to carry this bill through the constitution of the school boards and their formation is one of the most vital points of this bill. If we are not to have these school boards it will probably be impossible to carry the provisions of this bill through in an efficient manner. The constitution of the school board as you will find is made fairly elastic. The school board is to consist of not less than 10 and not more than 15 members, of which at the utmost three can be nominated by the Government. The remaining members are to be elected by the local authority itself. In that way therefore the school board will be subordinate to the local body, but in order to see that all interests are properly represented we have ensured in the Act that the school board shall include representatives of minorities, persons versed in educational matters and in details of educational management, and women. It is not to consist solely of these. It is to include these persons; so that if, for instance, a school board consists of 15 members, three will be nominated by the Government, the remainder will be elected by the district local board. It may be necessary to have one or two Mahomedans on it, one or two women especially to advise on the question of education of girls, possibly one or two men who may be experienced in educational administration, perhaps a retired educational inspector or a deputy educational inspector or a manager of an important private educational institution in that area. Then there might have to be a member of the depressed classes, six or seven of these can be elected by a body from themselves and it will be much easier if there are already people of this qualification on the body of the district local board itself so that they may be elected. But however in order that these interests should be represented we have not restricted the membership of the school board to the personnel of the district local board itself. We have given them wide powers. They can appoint them as they like. All that I can say about the three nominees is that these nominees will be so appointed as to make up for efficiency in the personnel. I myself have no desire to nominate a Government nominee at all if it is found that the board appointed by the district local board is suitable, because we want educational autonomy in the management. Well, this school board will, as I say, see to all the details, and exercise careful control over education. Whether there is the control of the local authorities, you might ask.

First of all, of course, the local authority will have a great deal to say when annually it makes the budget of the local board. The school board will have to submit every year its budget to the local authority. Then, under the rules that are to be made, the local authority will be given certain power of appeal. In particular, the school board administrative officer, whom we propose to create under this bill as the chief educational administrative authority, will have to be appointed by the local body. Dismissal of teachers will obviously have to be subject to an appeal to the local authority and other such important matters will be obviously subject to appeal to the local authority. But you will obviously see that it is not desirable to leave the detailed control of educational matters in the hands of a non-descript body like this, elected generally for an entirely different purpose. The school board is expected to meet once a month and to go into all details of administrative matters. I am talking more particularly of district local boards at present. They will have to possess an efficient executive, and for that purpose the bill provides for the appointment of an educational officer, the school board administrative officer as he is called. This will be a very important person, because in order that

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educational management may be carried out properly, it must stand or fall with the executive that manages it. Of course, the school board administrative officer will carry out the behests of the school board and the local authority. But, after all, he will have to be on the spot and the efficiency or otherwise of the educational administration will depend upon the efficiency or otherwise of this administrative officer. The board will also appoint teachers and inspectors. You will find a clause about that in the bill, because when I talk of educational autonomy, I intend that a part of the work which Government are at present doing should be delegated to the local authorities themselves. Ordinary supervision and ordinary inspection should be carried out by the local authorities themselves. Government will continue to maintain a few inspectors of its own, but their work will be somewhat different from what it is at present. Those officers will see that the educational management is efficient, that the ordinary rules made by Government are observed, and that the money that Government gives in the form of grants is properly spent. But the detailed inspection that Government is at present doing will be no longer done by Government inspectors, but will be left to the local bodies and the school boards of the local bodies themselves. When I talk of this educational autonomy, from what I have said already you will have understood the position that Government is going to take in this direction. But, after all, the ultimate control on the very fundamental principles of education must rest with Government. No Government can dissociate itself from the ultimate control of the way in which its future citizens are going to grow up. No Government has so far done it and no Government can afford to do it. While, therefore, giving as wide powers as possible to the local bodies, the ultimate control will lie in the hands of Government. It is a question of administrative sanity to see that that control is not made too galling or exercised in too minute a detail. But it should be maintained and something will have to remain with Government. Thus, for instance, the Vernacular Final Examination, the examinations of any training institutions, these will have to remain with Government in order to see that the teachers will at any rate have a fairly good qualification. In any case, it is expected that the inspecting and other staffs will be comparatively small. Audit of accounts will have to be carried out by the Government; for after all, they are paying the piper very greatly indeed. Further, you have to see that the teachers employed by these local bodies are neither sweated nor, on the other hand, pampered. We have got to see to both these aspects. We must see that they will be paid within a certain wide range. Probably we shall have to lay down certain minimum and maximum rates of pay within which teachers will have to be paid. It has been complained that the pay at present given to the teachers is too low or too high. Some people complain that it is too low; some people complain that it is too high. I believe that both these complaints might have a good deal of substance according to the place where they come from. In certain places the pay of the teachers may be too low; in other places the pay of the teachers may be too high. Government, having to do with the whole of the Presidency with its varying conditions, has got to make uniform rules. Those rules appear to be too favourable to certain cases and too unfavourable to others. When we give educational autonomy to local bodies as I have tried to sketch to you, individual variations could be provided for to an almost infinite extent. Any local body will arrange its pay of teachers according to the conditions in their localities. It may be possible that in a village you may be able to recruit a

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teacher from that very village who will be content to work in his own village—where he has perhaps got his own house and where he can look to some of his domestic affairs in the vacations or in other spare time—on a pay of say Rs. 15. On the other hand, if you impose on every teacher the liability to be transferred to any village in his district a hundred miles away from his native place, where he will have to pay for everything, fuel, milk, water, house-rent and so on, he will have to be paid a wage which will pay for this higher expenditure and he will, therefore, have to be paid a comparatively higher pay. At present, all teachers have got this liability of having to serve in any place that Government chooses in the district and consequently they have to pay them a comparatively high rate. A local body might very easily recruit their teachers on a somewhat modified understanding and they can very easily do it, because they have got a smaller range over which to roam. They can even make a condition with the teacher of not transferring him from his native village. In this way the local bodies may be able to reduce expenditure on their teachers. But, of course, in order to allow for this, we have to give them a very wide range in which teachers of various qualifications may be engaged. Of course, we must not sweat them too much and we must give them something reasonable; otherwise the work that they do will be inefficient. On the other hand, we must lay down our maximum limit, because it may just happen that some local bodies will come forward to pay them too much. Thus, in the matter of teachers a good deal of freedom will be given to the local bodies.

There is one more important point about the question of teachers. We have got at present about 27,000 or 28,000 teachers in our employ. When we give educational autonomy, we cannot also turn out these 28,000 teachers. Government have committed themselves to certain conditions, and all these teachers will not disappear for 30 years. We have got to safeguard the interests of these existing teachers, and therefore, these teachers will be permanently transferred to local bodies under certain permanent conditions. The local bodies may engage new teachers, they can do almost anything with them, but the interest of the present teachers should be fully safeguarded.

Well, Sir, I have explained to you most of the details of this bill. I have not gone into too many details. One point about which a certain apprehension has been expressed is about the last clause with regard to the making of rules. You will find that the conditions in this Presidency are very wide and varied. Rules, if they are too minute and detailed, which may be applicable to one district may not be applicable to another district. Take, for instance, the constitution of school boards. We have laid down its general character. As regards what should be its personnel, how many Mahomedans should there be, how many should represent the depressed classes, and such details have to vary from school board to school board. Therefore, the constitution for each local board has to be laid down separately, in each individual case, and not by regulation in the body of the Act. These will have to be left to Government. Similarly about teachers, about their pay, their standing and so on. This is a thing.....

The Honourable the PRESIDENT: In this particular clause you have not introduced the words which are to be found usually in all Acts that "Government may by notification in the *Bombay Government Gazette* make rules for the purposes of this Act, consistently with the provisions of this Act, or subject to the provisions of this Act."

The Honourable Dr. R. P. PARANJPYE: In any case, it will be added in the select committee.

The Honourable the PRESIDENT: I mean, when you spoke of the apprehension of the absence of the words I have mentioned, it may be due to the fact that in their absence the clause might be interpreted to mean that wide and arbitrary powers are given to Government and that Government can make their rules whether consistent or not with the Act. It is a very important point, and when the bill comes for second reading, it will be my duty from the Chair to warn the members as to the defect of the clause if the words are not added.

The Honourable Dr. R. P. PARANJPYE: You will find in the definition that 'prescribed' means 'prescribed by rules made by the Government for the purposes of this Act.'

The Honourable the PRESIDENT: That does not meet my point so far as I can say now.

The Honourable Dr. R. P. PARANJPYE: Anyhow it can be done in the select committee.

Clause 25, sub-clause (2), says:

"In particular and without prejudice to the generality of the foregoing provision, such rules may determine the powers and duties of local authorities, school boards and School Board Administrative Officers and their relations with the Government Educational Department and the conditions regarding the pay, qualifications and terms of employment of the teaching, inspecting and supervising staff."

Those are details where it would be better to leave the making of rules to Government, in order to enable them to change those rules so as to suit various places; but if any member wants any particular detail to be introduced in the bill and if it can be conveniently done, I shall not object to it when the bill comes for detailed consideration before the House.

I shall refer the honourable members now to the programme of compulsory education that has been laid down by the committee. You will find in that programme, certain steps are directed to be taken. One of the very important recommendations that the committee has made, which, I think, goes to the very root of the matter, is the question of grants from Government for expenditure on education. I shall read that paragraph, because it is of such a vitally important nature:

"We emphasise the fact that any additional grants for primary education must be of a recurring nature, and not subject to reduction in any succeeding year, and any programme of compulsory education necessarily involves a gradually increasing expenditure reaching a maximum in a certain term of years. A system of hand-to-mouth finance would be fatal to the success of any scheme propounded."

That is a thing that has got to be understood by this House. If we wish to take any step in the direction of compulsory education, or even extension of education, we must make it a point that a step taken forward should not be retraced. That is a very important provision, which I wish this Council to understand. Not only this Council, but succeeding Councils also will have to keep this in view, because otherwise progress in education will be spasmodic, and money will be wasted, and we will not get proper return for the money we spend. We ought to make a beginning and should be able to show, after a certain period, to the other provinces that we have got a fairly successful form of educational system.

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There is a wide difference of opinion on one point and particularly on the question where the beginning should be made. On the question of policy, the committee recommends that a beginning should be made in municipal areas. On the other hand, my honourable friend from Belgaum district is particularly insistent upon seeing the beginning made in villages. My honourable friend from Belgaum is quite correct in pulling violently the other way when the committee is going in the opposite direction. The proper course to follow is midway between the two : to confine our activities neither entirely to municipalities nor to the villages. We shall have to take both simultaneously. First of all, it is not right that all our resources should be devoted to municipalities, leaving district local board areas untouched. On the other hand, we must see what the result of a wide range of the experiment will be, because the success or the failure of the experiment in the first year or two will determine the character of the step we should take in future. The necessary machinery, I think, will be ready earlier in the municipal areas than in the local board areas—a few months earlier—because municipalities are accustomed to it, while the local boards are new to these things, such as the appointment of school boards, its election and so on. There may be a difference of five or six months' time. Because there is this small difference in time for getting the machinery ready, we will not be justified in cutting out the local board area.

Then, there is the question of the education of girls. On this point, to my mind, the recommendations of the committee are not quite so satisfactory as I should have liked them to be. The committee recommend that the compulsory education of girls can be carried out in the immediate future only in municipal areas—they say 'perhaps only in municipal areas'—and they think that in local board areas the education of girls will have to proceed on an optional basis for several years to come. I do not know whether this is an absolutely correct view of things, but I have strong hopes that just as the demand for primary education, at least in the case of boys, has grown very rapidly during the last 5 or 10 years, at the same rate, or even at an increased rate, the demand for the education of girls also will arise and that in five or six years the members of the committee will be considered as having been too cautious rather than over-confident. But in any case, I might assure the Council that, so far as I am concerned, the education of girls will not be neglected in the slightest degree, and I shall try to do the utmost that is humanly possible to push on this part of the educational programme also. I cannot say anything more than that.

Then, there are several other vexed questions, and in particular my honourable friend the member for the Hindu community of Northern Sind discusses the question of education in Sind and my honourable friend from Karachi also discusses the same question. They bring before us the question of the various difficulties of introducing compulsion especially in rural areas in Sind. The question is complicated, but I have strong hopes that the question is not so insoluble as it appears to be. Of course, one understands that the number of villages in porportion to the population is a little larger in Sind than in the Presidency, but that the number of villages that can afford schools is smaller in Sind than in the Presidency. If we open schools in all those places where it is possible, although we shall not be able to touch as large a population in Sind as in the Presidency, still about 60 to 70 per cent. of the children can be brought under compulsory education. But there is this difficulty, that the larger part of the population being Mahomedan, with particular predilections in favour of the teaching of the Koran, we must go in

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directions which are fairly acceptable to the people in Sind. You will find at present that the number of local board schools in Sind is comparatively small and in a large number of places the only education that people get is through the medium of the *Mulla* schools. One might possibly admit that the average efficiency of a *Mulla* school is perhaps less than the average efficiency of a district local board school, although I know there are several *Mulla* schools which are as efficient as any local board school. I myself went last year, when I was in Sind, especially to see these *Mulla* schools : I saw some very good *Mulla* schools, some moderate *Mulla* schools and some bad *Mulla* schools. But there are such classes of schools everywhere, and probably you will find that, seeing that there are a fair number of good *Mulla* schools, it is quite possible to raise the other schools to this fair standard of efficiency. In any case, in Sind it would not be practicable to open local board schools everywhere and say " Your children will have education only if they attend the local board schools, and not otherwise." We must take the *Mulla* schools, and if possible give each such school a trained, or at least a qualified, teacher to help the *Mulla*, and thus make the people appreciate the benefits of education. Thus, the difficulty can to a great extent be overcome. At any rate, we must take the people with us if we are to carry out any wide programme of education. We see that in carrying out this programme of education, difficulties are likely to arise. The report of the committee tells us that the demand for compulsory education is comparatively very strong in the Deccan, Konkan and Karnatak, but it is not quite so strong in Gujarat and is less strong still in Sind. During the course of ten years, of course, we shall have to go over the whole Presidency, but it is possible that the initial steps might deal to a larger extent proportionately with those places in which the demand is stronger—not that the other places ought to be neglected—but perhaps the initial stages might be so arranged that we shall proceed by the path of least resistance. But we hope, and I do hope, that ere long other places which appear to be not quite so enthusiastic about compulsory education will themselves come forward and urge on Government the necessity of having compulsory education in their areas. For, remember that the finances for compulsion have to be met by the taxation of all the people of the Presidency. If, when compulsion is going to be introduced, the benefit of it goes only to one portion of the Presidency, the people from the other parts of the Presidency will naturally complain why the benefit of the tax that they pay should go only to the other places. I expect complaints in this direction, and also expect to have demands coming from all parts of the Presidency that compulsion should be simultaneously introduced in all parts in a uniform manner. Remember also that a wide-reaching measure of this kind can only be worked with the whole-hearted sympathy of the educated classes, and at least the passive acquiescence of the large number of people in the Presidency. We cannot carry on compulsory education with the aid of the police ; we cannot give every child in the hands of the policeman in order to take him to school. That we cannot do. We must expect the people to acquiesce. We want our people to be educated to the benefits of education and it is to the credit of the non-Brahmin classes in the Deccan and the Karnatak that they have educated their own brethren to this need, and we do not expect that there will be any difficulty on their side ; at any rate, if there is any difficulty, the leaders of this class will not give the people the slightest encouragement. We are told that in Sind and Gujarat we are likely to meet with difficulties. I hope that those difficulties are of an ephemeral character. In fact, we find that Gujarat is the best educated part

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of this Presidency. In connection with certain other figures, which I was collecting in answer to a question by my honourable friend from Ahmednagar, I found that in Gujarat there were a larger proportion of pupils in the fourth and higher standards than in other parts of the Presidency: in other words education was more efficient in Gujarat than in other parts of the Presidency. Gujarat, which is so well educated and which contains an Indian State which has given an object lesson in compulsory education, will not be lagging behind.

Then, lastly, Sir, I wish to touch upon certain proposals which will be soon laid before this Council. In order to have compulsory education, we must have the wherewithal. After all, Government is going to take a very large responsibility of a financial character over and above other administrative difficulties. The financial difficulty is very large, but Government has made this proposal with the hope that they carry the Council along with it. We have all heard it said that all that is at our heart can be obtained by retrenchment. I have not a word to say against retrenchment. Retrenchment should be made wherever possible, but, as has been pointed out several times, retrenchment proposals can only take effect gradually; but we cannot wait until all our retrenchment has been effected and then start any new proposals. While, therefore, our retrenchment policy should go on, we must also go on with our constructive programme, and the very first item in the constructive programme is the wide diffusion of education. But, in order to do this, we must be prepared to put our hands in our pockets. The local bodies are being asked to contribute a small portion. We know that their resources are not very large, but still we are going to ask them to contribute a certain portion of the expenditure. A large portion of the expenditure will have to come from Government, but if the Council is bent upon carrying forward the step of compulsory education which, let me again assure the Council, is in the interest of the lower, the backward and the depressed classes and the Mahomedans of this Presidency, we must be willing to put our hands in our pockets. Certain taxation proposals will be placed before the Council. They will not be all brought forward in this session, because the whole programme is spread over ten years. In the first year we shall have to find Rs. 15 to 20 lakhs, in the second year Rs. 35 lakhs, and so on. The burden will be gradually laid upon the Council, but the Council must be prepared to bear that burden, if they believe in the efficacy of education. I have no doubt at all that the Council will rise to the responsibility that is before it. So far as working out the details and carrying out the programme is concerned, Government is entirely at one with members of this Council, but honourable members must place the necessary funds at the disposal of Government, in order that the programme may be carried out. You cannot make bricks without straw, and I hope that when Government will place the necessary proposals before this Council in order that this wide programme should admit of being carried out, the Council will support Government. We have proposed this bill and have accepted in its wide generalities the programme laid down by the committee, and may go perhaps even further than that, because we feel that it is only by the expansion of education and by the introduction of compulsory education that this question can be solved. The proposals have been made in difficult times, but the proposals have been made in the fullest confidence that the Council will be at one with Government in the achievement of this object. I, therefore, hope, Sir, that the Council will pass the first reading of this bill.

Rao Saheb L. V. PARULEKAR (Ratnagiri District): Mr. President, I rise to support the first reading of this bill. In the first place, I must thank the Honourable Minister in charge of the bill for having introduced this far-reaching and important bill. For a long time, there has been a cry both from the classes and the masses for this measure, and, so far as the principle of the bill is concerned, I submit that there cannot be two opinions, except perhaps for Gujarat. (An Honourable Member: No. no.) Then, I will say that there cannot be two opinions so far as the principle of the bill is concerned. Still, I wish to say that I cannot be as optimistic as the Honourable Minister, so far as the carrying out of the provisions of this bill is concerned. The first and most important difficulty that will come in the way of a proper carrying out of the provisions of this bill is the one about the supply of the fuel for this engine. Sir, I will content myself with that aspect of the question, only so far as the municipalities are concerned, of which I have had experience or more than eight years. I see that there are honourable members who have worked out statistics to show what expenditure will be necessary to make compulsion successful. The local boards will not be in a position to make any provision for it unless Government comes to their aid. Anyhow, so far as I am concerned, I will simply content myself with referring to the municipalities, as they will first come in for the operation of this bill. Now, it is true that in 1917 there was an Act introduced called the Patel Act which gave the option to the municipalities of introducing compulsory education. But, how is it that the municipalities are still lagging behind in the matter of taking advantage of that Act and introducing compulsory education in their areas? Everybody knew of the necessity of introducing compulsory education. If any municipality was in a position to do so, they would not have put it off. The only change in the present bill is, what was formerly optional has now been made compulsory. But iron cannot be turned into gold. We are exactly in the same position as we were in 1917; perhaps, in some cases worse. Under the circumstances, the question is not that there was no Act which made it compulsory on the municipalities introducing compulsion. When the previous Act on the subject was passed, we did try to see whether it was possible to introduce that scheme. All kinds of plans and estimates were prepared, and the question was gone into to see whether even in future it might be possible to introduce such a bill and take advantage of the Education Act. Attempts were made not once but several times to take advantage of the Act, but it was found absolutely impossible. Our experience has been that even under this Compulsory Education Act it is difficult to introduce this system and incur greater expense. You may pass any enactments you like, you cannot change the system. My submission, therefore, is that unless that clause about the contribution of one-half is suitably changed, it will never be possible for all the municipalities to introduce this bill and only those municipalities which have the means to go in for it will do so.

By certain clauses power has been given to Government to call upon a municipality to introduce compulsory education and any municipality that fails to do that has to bear all the responsibilities and other consequences fall upon that municipality. How is Government to determine whether a municipality is in a position to introduce compulsory education? How is that action of Government to be controlled? There is no provision made in this bill for that. On the one hand, you have the word of the municipality and on the other you have the word of Government. Who is to decide between these two? My suggestion, therefore, is that we should not give power under this bill to Government to compel any municipality to start the compulsory system

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should such municipality not be in a position to carry it out. So far as the constitution of the school board, the powers of the school board and the duties of the school board, are concerned, I submit that so far as a municipality is concerned, there is no necessity of appointing a school board at all. As far as the district local boards are concerned, I am inclined to be in favour of such a scheme because the school board will then be constituted of members who come from distant parts of the district, sometimes from a distance of 120 miles or so, there are very few meetings and the members are not able to manage the affairs properly, their duties may be so numerous and various that they may not have the time to devote to education. But, so far as municipalities are concerned, their areas are always very small, they know the wants of the people in their areas and they can very properly manage their own schools; they have been doing so and it has never been stated that municipalities have been unable to manage their schools efficiently.

Another thing: there are three different sub-committees which have got to be appointed by the municipalities—one is the committee specially devoted to the administration of school matters, known, of course, as the school committee; the other is the hygienic committee for public health. So there is a special board under the control of the municipality. The school committee knows what to do and always is in touch with the people of the municipality or the general body always can control and see, and advise and also go to the the schools themselves and study the circumstances. We can clearly see that such an amount of amalgamation or combination of this school committee and the general board is caused that, instead of rather giving them power of having a part of their own body set apart for a particular purpose, we are attacking the independence of the body.

Now, Sir, there is one difficulty. Suppose there is one municipality of 10 or 15 members in which there are elected members and some members nominated by Government. Then we are to use from that body some elected and some nominated members. Then again, we are told that we are to elect another body out of that body. So far as this election is concerned, the main body, namely, the local authority, is responsible. But subsequently instead of one there are two bodies and that means this body elects the other members and Government should also nominate certain persons. Now, I do not understand how that is independence. Then again, we have a third body and there again this body is to again appoint another officer who is to be the supervising officer of the school board. So my submission is that it is not necessary, so far as municipalities are concerned, to have this power of election and nomination to the other board. I do not understand why we should not have persons in that body chosen by the municipality only. Then it is said minorities should also be represented on that board. Then again it is stated that the remaining members shall be elected by the local authority and shall include persons of experience in education and also women. Well, if there is no woman available, then, what? There again, there will be difficulty. Here we have in the municipalities communal representation so far as we can see. Then subsequently, it is stated that all schools that there are under smaller municipalities should be under the local boards who can look after the revenue administration so far as these school boards are concerned. Then, it is also suggested that in these school boards also there should be communal representation. Now, so far as the general body is concerned, the present school committee is already responsible to it and that is one way of doing things. So

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then, why this different body like the school board under the local board ? Then again we see that one body appoints another body. Then, there is a third officer and that is one man who is called the supervising officer.

Now, as regards communal representation, how can there be communal representation in the school board ? If we ought to have communal representation there, we will have to see that there are sufficient numbers of each community proportionately.

Then, there is the question of independent powers. These independent powers of the school board are the so-called powers of the municipality. I submit, Sir, this kind of constitution is altogether uncalled for. So far as the municipalities are concerned, there is no necessity of appointing a separate school board at all. Municipalities can do away with the school board as they have already got their own school committee.

The next point that I would urge is that of the educational autonomy. The independent powers that are given to the municipalities are in regard to change of the administrative control. These are the things which I should like to be considered. If you go into the bill clause by clause, I will show you just now that in every clause there is the controlling hand of Government and also in all cases. There are some 26 clauses which deal with these powers. Out of them 13 clauses are clauses of no importance. So far as my point is concerned, they are consequential clauses or are such that they may be considered to be unimportant. They are of an innocent kind. For instance, clauses 16 to 26 are the clauses which rather penalise the parent and also refer to the application of rules regarding these penalties. Clauses 1 and 2 are clauses which give the definition and clauses 4, 9 and 12 are also clauses of similar sort. But now, besides these clauses, I will show that at every point there is the right of interference on the part of Government and you will see that instead of giving independence, or educational autonomy as it is called, the powers of the municipalities or municipal boards have been restricted and a separate educational authority under the control of Government has been created in the supervising officers, and the municipalities have been made to lose their independence. In the first place, in clause 2 we find " local authority " means a district local board or a city municipality which is authorized by the Government to manage its own schools and includes in the case of Aden the Executive Committee of Aden. Now there Government take upon themselves the responsibility of defining or making rules about municipalities which can manage their schools and which ought not to manage their own schools. Why should this distinction be made ? If certain municipalities are unable to manage their own schools, then there are other sister institutions to whom education can be entrusted and it will be a matter of mutual arrangement between the municipality and those institutions. Why should Government make a distinction between the municipalities which can manage their affairs and those which cannot. So, that is taking away the power which the municipal law gives to the municipalities of managing their own schools. In this bill that power is taken away and they are given no option. It has been made compulsory on these smaller municipalities to entrust their education to these school boards of local boards and they have been asked to make provision for the educational expenditure. Now, why is all this obligation necessary if there is to be educational autonomy ? Then clause 3 relates to the constitution of the school boards. In these school boards some people shall be nominated

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and some are to be elected and this school board has also nomination by Government. Then, coming to clause 4 that clause deals with the powers and duties of the school board. It is stated there that the powers and the duties of the school board shall be as prescribed, and, as I understand it "prescribed" means by the rules made under clause 36 of the Local Boards Bill. Now Government wish to frame these rules in particular and there is a provision which states that such rules shall be determined by the local authority of the school board, by which I understand the administrative officer of the school board.

Now, Sir, coming to clause 5, we see that according to that clause certain municipalities are to hand over their schools to the management of the district local boards. There also we see it says:

> "Every municipality which is not authorised by the Government to manage its own schools shall on the date to be notified by the Government in this behalf transfer to the district local board of the district in which it is situate all primary schools, etc."

Then again, the next portion of the same clause says as regards contribution by the municipality,

> "Such amount as may from time to time be fixed by the Government on the basis, etc."

The ratio of the amount to be paid is always to be fixed by Government. We see that the members of the municipality have no voice. Time and notification are also not left to the party concerned, namely, the municipality, and the proportion also is to be fixed by Government.

Then we come to clause 6, which says:

> "Where in any municipality a school committee has been appointed.....the control of that committee of primary education shall from a date to be notified by the Government in this behalf cease."

The date is fixed by Government and from that particular date the control of the school committee is to cease. Then we come to clause 7.

> "The local authority shall with the previous approval of the Government appoint an officer who shall be called the School Board Administrative Officer."

Here the greatest complication lies in the words "with the previous approval of the Government". We have seen that there was much complication in connection with the pay of teachers, etc., at one time Government saying "You must pay at such and such a rate, and you must appoint such and such persons to those posts". Very well, then. Why should we not appoint our own person? And if it works satisfactorily, you may give some compensation. Then again, what is the reason for Government's sanction? We do not understand the reasons. We have no grounds to know what are the reasons for which sometimes sanction is given and for which sometimes sanction is withheld. Very well, then. This approval is an important thing!

Then comes clause 8. I am reading consecutive clauses. Sub-clause (2) says:

> "A local authority, if called upon by the Government so to do, shall within a time to be specified by the Government submit a scheme to provide compulsory elementary education in such area as above and in the case of children of either sex or both sexes as the Government may specify."

I have already spoken about the time having to be specified by Government. Now here is a power which has been given to Government rather to penalise any local authority, any municipality or a local board, and without any reason.

Then, clause 9. It is about the particulars to be contained in the scheme to provide compulsory elementary education. It is more or less a formal clause.

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Then we come to clause 10, which says:

"The Government may after such enquiry as shall seem necessary either sanction such scheme with or without modification or refuse to sanction it".

Government is the final authority. Sanction is to be given, modification is to be asked for, or sanction may be refused also.

Very well. Let us pass on now to clause 12 which refers to cases where compulsory education is introduced. So far as making education compulsory of both boys and girls is concerned, the Honourable Minister in charge says it can be done in any municipality. But we know sending of girls to school has much to do with womanhood. I mean women will not always agree with men. Sometimes, we know, whatever has been said by the husband is not liked by the wife, or the women in the house, and it will be sometime before there will be agreement between the views of the men and the views of the women. Therefore, when a girl is to be sent to the school, the father may like it, but the mother may not like it, and there will be discontent among all the women or the greater portion of the women, so far as this clause is concerned. We are thoroughly familiar with the state of things in the mofussil. When such things are likely to happen even in the towns, what about the mofussil places, villages and so on? Therefore, it cannot be said that compulsory education for girls can be easily introduced.

Then clause 13. If a scheme is to be modified by a local authority, it cannot be modified except with the sanction of Government. What has Government to do with it? Government can at any time withdraw it, or modify it or do anything of that sort.

Then again, we see in clause 15 that

"The subjects, curricula, books and standards of teaching of approved schools shall be as prescribed but may be altered by the school board with the sanction of the Government to suit local requirements".

Everywhere we see now "as prescribed" or "as approved".

Now, Sir, in an innocent clause like a clause to give the meaning of "reasonable excuse", clause 17, Government has gone so far as to have control over the distance where there is no approved school. That is, the distance how long a boy has to travel for attending a school is to be determined by Government. I fail to understand, Sir, why in such a trifling matter even, Government should have the power or control. Can we, after reading this, say that this bill is really liberal? I fail to understand how we can consider it a liberal measure when the wording of the bill is what it is.

Then come clauses 18 to 22, with which we have need to do very much. In connection with this clause 19, I have to say one thing, that giving any power to police patels is simply abusing a clause.

The Honourable the PRESIDENT: Which clause is it?

Rao Saheb L. V. PARULEKAR: Clause 19, Sir. Under it, powers are given to the police patels. Now, we know, Sir, what kind of persons these patels are. Sometimes, I can say, they are simply coolies! They do not know how to read or write, and if some complaint is lodged to them, they will consider it an order from Government to do something. They do not know law; they do not know how to read or write. They get some friends in the village or in the municipality to explain to them what is contained in any communication sent to them. As an alternative for this, it may not be right that complaints should be decided by any members of the school board or that they should be the arbiters and the judges. But there are village panchayats

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or taluka local board members, and members of the taluka local boards or panchayats may be substituted for them. What is the use of giving powers in this matter to a patel? So far as we know, there would be a procedure for taking down evidence, taking down the defence and all sorts of things. Very well. This is unnecessary bother, first give the power to a person who is altogether incompetent and ignorant, and subsequently go against him.

Now, Sir, I come to the clause of "Appeal", clause 22. That is a penal clause.

In clause 23 again, we see:

"The Government may by notification in the *Bombay Government Gazette* exempt any particular class"—Government and not the municipality nor the district local board or any other person but the Government—"or community in any area of compulsion or part thereof, from the operation of this Act",

Then, clause 24 deals with compulsory power and is somewhat similar to clause 8. Clause 8, sub-clause (2), and clause 24 are of the same sort.

Then comes clause 25. The rules have to be made as regards the constitution of school boards by all of us concerned from the municipality down to the district local board.

Now, Sir, I have dealt with all clauses of the bill. There is not a single instance where the control of the Government does not appear. It is Government Educational Department in another shape: the curricula are to be fixed and duties are to be fixed, and everything else is to be fixed, by Government. There is not a single thing in which Government will not on some ground or other interfere. My submission, therefore, is that unless all these things are modified consistently with the object of really giving independent power, this bill as it stands will have to be modified to a great extent. With these remarks I am supporting the first reading of this bill, as I have already pointed out, with diffidence.

Mr. G. B. TRIVEDI (Thana District): Sir, I rise to congratulate the Honourable Minister on the very lucid statement he has made in introducing this very important bill for a further advance in the method of primary education. We have on the statute book a permissive legislation, but he has taken a bold step to take us to the stage of compulsion. I really feel that it is a bold step in many ways. I really feel that this bill should have come some years ago, in the years of our prosperity, when we had good balances of four and five crores, when Government, local bodies, and municipalities did not find themselves in a financial crisis as they find themselves now. In spite of that unfavourable circumstance, I welcome this bill and assure the Honourable Minister the whole-hearted support of this House in the bold adventure that he is taking. But at the same time, when we are to give the whole-hearted support of the province, of the people outside this Council, I have only one doubt and it is this. I do feel that, apart from financial considerations, there is an atmosphere which is uncongenial to the introduction of this bill at this time, and without going into those conditions, I will only say this that when the Honourable Minister appeals to the people outside this Council for whole-hearted sympathy, I, on their behalf, appeal to him that he will take more opportunities (I wish he had taken more opportunities), of going amongst the people and mixing with them, finding out their grievances and trying to ease the situation, which is extre ely trying. One question I had once put with regard to the incidents of the Ahmedabad and Surat municipalities, and the reply I got was that they did not want to co-operate

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with us. What I said at that time I make bold to repeat: "Even if the people non-co-operate, it is not the duty of the Ministers to non-co-operate with people".

The Honourable the PRESIDENT: Order, order. The honourable member is taking advantage of the first reading of this bill for the purpose of going into matters which are irrelevant and do not bear upon the principle of the bill.

Mr. G. B. TRIVEDI: I only refer.....

The Honourable the PRESIDENT: I do not mind what the honourable member is referring to. It is for him to respond to my ruling.

Mr. G. B. TRIVEDI: I do respond.

The Honourable the PRESIDENT: I do not want to curb freedom of discussion. The honourable member will understand that he will be within perfectly legitimate limits when he says that the bill is introduced at a time when the Honourable Minister may not expect the whole-hearted support of the people; but to diverge into the duties of the Minister to go amongst people, to ease the situation, and all that, is irrelevant and may carry us into a very wide field of discussion. There may be other occasions to do so, but not on the first reading of the bill. The honourable member understands, I suppose.

Mr. G. B. TRIVEDI: I take this opportunity of congratulating the members of the committee that went about in the Presidency in such a short time, putting themselves to great inconvenience, took evidence and met people, although there also conditions were not favourable, and submitted a very helpful report, which the Honourable Minister has rightly said would be a guide, not only to this presidency but also to other presidencies.

Now, as regards the constitution of the school board, I understand that the city municipalities will have more control in all these matters than the local bodies and smaller municipalities, which, being new, will have to be guided, rather than be allowed to guide themselves. I welcome that observation. But, Sir, the school board that will have to be appointed by the local board and smaller municipalities together will have to be enlarged. A school board consisting of 10 or 15 members to look to the wants of a large population, for instance of 8 lakhs as in my district, is rather too small, and it cannot be called a fair representation of the people of the particular district. I submit, in the select committee care should be taken to see that each taluka is represented, and that small municipalities also are represented. Looking to the population of 8 lakhs in my district, is it possible to expect that a board consisting of 15 people will be in a position to manage educational administration, and convince the people that their education is in safe hands? Therefore, it will have to be enlarged, and even doubled perhaps. As regards the control, I do agree with the Honourable Minister that Government cannot divest itself of the ultimate control. I see that in the bill he has tried his best to give as much autonomy as is consistent with efficiency. But, I feel at the same time, Sir, that our Honourable Ministers, I mean the Minister for Local Self-Government and the Minister for Education, should take early steps to associate themselves with a standing committee of this House, as has been done in other provinces. That would give a better guarantee that Government will be responsive to the views of the members of this House.

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This is only a suggestion from me. In other presidencies it has been done and I think it should be done in our Presidency also.

Now, I come to the question of finance which, as the Honourable the Minister has put it, is the root of the whole thing. I submit that after the assurance that the Honourable Minister has given to the House that the present contributions from Government will not decline and that the new expenditure only will be divided in the proportion of two-thirds and one-third, the House has breathed a sigh of relief. But even then you will see, Sir, that the proportion comes to 75 and 25 per cent., and I still feel that it will go very hard on the local boards to find the 25 per cent. of the expenditure. I do not for a moment maintain that the local boards are unwilling to tax themselves. It will be our duty, the duty of each of us, to go to our districts and convince the people that if we want compulsory education, for which we were asking so far, we must put our hands into our pockets and find the money. But my difficulty, Sir, is that while on the Government side their sources of revenue, are new and expanding (I see from the report of the Education Committee that they have suggested a number of sources of revenue)—I again repeat what I said in the course of the discussion on the Local Boards Bill—our sources of revenue are limited: the Honourable Ministers should make representation, whether it be to the Imperial Government or the provincial Government. If we in Thana district are allowed to tap the forest revenue and the salt revenue we will find enough of money at least so far as my district is concerned. In the absence of power to tap these great sources of revenue my district will find it impossible to find enough money. Thus, while Government have got new sources of revenue, the district boards' hands are tied. And I will not be surprised if after welcoming the bill for a time, they ultimately come to Government and say that they are unable to find even the 25 per cent. that they are asked to contribute. Therefore, I want the Honourable Minister, even at this late stage, to consider whether it is not possible for him and the other Ministers combined to represent to the provincial Government to let us have certain sources of revenue, or to approach the Imperial Government and get us back our *sair* revenue.

And then, coming lastly to the question of retrenchment and construction, I am whole-heartedly with the Honourable Minister in thinking that although this House has recommended retrenchment in all possible ways, yet new sources of revenue must be found. But if this Council agrees to take steps to tap these new sources of revenue for compulsory education, I do feel and I do insist that those new sources should be earmarked for education. At the same time, I hope Government will go on with their retrenchment policy. I do feel also that it is our duty to find new sources of revenue to enable the Honourable Minister to find the required revenue. It will be the duty of this House to sanction his proposals. But there our power ceases. Again, I shall have to refer to the atmosphere that is prevailing outside, and I do appeal to the Government, both transferred and reserved, that they should take early steps to ease the situation outside, so that people will whole-heartedly welcome this bill and will be ready to take steps themselves and give the sinews of war to the Honourable Minister for the new experiment that he has started.

With these words I support the first reading of the bill.

The Honourable the PRESIDENT: The Council is adjourned to 2 p.m. on Monday, the 2nd October 1922.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

*Monday, the 2nd October 1922.*

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The Council reassembled at the Council Hall, Poona, on Monday, the 2nd October 1922, at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present:*

ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
FERNANDES, Major C.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GRIFFITH, Mr. F. C.
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GRUBASAPPA
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
HOOD, Mr. A. J. F.
ISRAN, Khan Saheb G. A.
JADHAV, Mr. B. V.
JENNINGS, Major General W. E.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.

KAMBLI, Mr. S. T.
KER, Mr. J. C.
LAGHARI, Khan Bahadur KHAIR BAKSH
LALBHAI AMBARAM, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LIGADE, Mr. S. P.
LORY, Mr. F. B. P.
MANSURI, Khan Saheb A. M.
MEAD, Mr. P. J.
MOHOMED SALAHUDDIN K., Mr.
MOUNTFORD, Mr. L. J.
MUTALIK, Sardar V. N.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PAINTER, Mr. H. L.
PARANJPYE, The Hon'ble Dr. R. P.
PATEL, Mr. B. P.
PRADHAN, Mr. M. W.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SAYED, SHAHJADE SAHEB HAIDAR SAHEB
SETALVAD, The Hon'ble Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY
SURVE, Mr. A. N.
THAKOR of AMOD, Sardar NAHARSINGHJI
THOMAS, Mr. G. A.
TRIVEDI, Mr. G. B.

The Honourable the PRESIDENT: Order, order. Questions.

GRANT-IN-AID TO DISPENSARIES.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Will Government be pleased to give the amount of grant-in-aid given to dispensaries in urban areas in each district and the number of dispensaries and the amount given as grant-in-aid to district local boards in rural areas?

The Honourable Mr. C. V. MEHTA: The information asked for is contained in Statement H appended to the Report on Civil Hospitals and Dispensaries for the year 1920, copies of which are supplied to the members of the Legislative Council.

### Office Attendance of Collector of Broach.

Mr. C. M. GANDHI (Surat City): Is Government aware :—

(*a*) that the Collector and District Magistrate, Broach, hardly ever attends his office for transacting either his revenue or magisterial business ?

(*b*) that parties and pleaders have on that account to attend at his residence far away from the town and that they are on that account put to considerable inconvenience and great expenditure ?

(*c*) Is it a fact that a pleader of Broach of long standing called at his bungalow on 29th August 1922 at 1-10 p.m. to present to him a criminal application on behalf of his client ?

(*d*) and that the District Magistrate not being in office, he waited outside the compound of the bungalow till 3 p.m. without being called in ?

The Honourable Sir IBRAHIM RAHIMTOOLA: The information will be called for.

### Lady Assistant Surgeons.

Mr. D. D. GHOLAP: (*a*) How many women are assistant surgeons within the Presidency proper ?

(*b*) To what castes do they belong ?

The Honourable Mr. C. V. MEHTA: (*a*) Seven.

(*b*) Five Parsis and two Christians.

### Secondary Teachers' Training College.

*Mr. IBRAHIM S. HAJI (Bombay City): Will Government be pleased to state—

(*a*) the total number of students in the Secondary Teachers' Training College ;

(*b*) the total number of students that drew higher salary than the teachers in this college during the last five years, *e.g.*, 1917 to 1921 ;

(*c*) what these teachers drew before they were admitted in the Bombay Educational Service ?

The Honourable Mr. C. V. MEHTA: (*a*) 34.

(*b*) and (*c*) These parts have already been answered.

### Teaching of Urdu.

*Mr. IBRAHIM S. HAJI (Bombay City): Will Government be pleased to state whether a teacher has been appointed in Elphinstone High School and a Professor in Elphinstone College to teach Urdu ? If not, why ?

The Honourable Mr. C. V. MEHTA: With reference to the concluding portion of the reply given at the last session, it is reported that the number of boys taking Urdu at the Elphinstone High School, Bombay, does not justify the appointment of a separate Urdu teacher.

### Delay in payment to the Food Contractor, J. J. Hospital.

Mr. M. A. HAVELIVALA (Bombay City): Will Government please say whether it is a fact that the contractor for the food supply for the patients in the J. J. Hospital did not get his bill paid on one occasion last year until after a delay of nearly five months ?

The Honourable Dr. R. P. PARANJPYE: It is not a fact.

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*This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

INDIAN POLICE OFFICERS.

*Rao Bahadur R. R. KALE (Satara District): Will Government be pleased to furnish a list of Indian Police Officers of and above the rank of Sub-Inspectors who have passed the Matriculation or School Final Examination together with their present appointment and the various districts in which they hold their posts?

The Honourable Mr. M. H. W. HAYWARD: A statement† giving the required information so far as obtainable without an undue expenditure of time and labour is laid on the table.

SEPARATION OF EXECUTIVE AND JUDICIAL FUNCTIONS.

Rao Bahadur R. R. KALE (Satara District): How far has progress been made in the separation of judicial and executive functions of Government in the Presidency in accordance with the resolution of this Council in this matter?

The Honourable Mr. M. H. W. HAYWARD: The Commissioners of Divisions and the Commissioner in Sind were consulted as to the practicability of reducing the ordinary magisterial establishments and of transferring the magisterial work to subordinate judges at places where there are subordinate judges' courts. The replies of Commissioners have been received and are being considered by Government.

Rao Bahadur R. R. KALE: Will Government be pleased to state when the matter will be decided?

The Honourable Mr. M. H. W. HAYWARD: I cannot say. It depends very largely on the financial situation.

BUILDING GRANT FOR URDU GIRLS' SCHOOL AT HUBLI.

*Mr. S. T. KAMBLI (Dharwar District): Will the Government be pleased to state:—

(*a*) Whether it is a fact that the Hubli municipality has been applying for a building grant for the building of Urdu girls' school in Ganeshpet?

(*b*) If so, since when has the municipality been applying for the grant?

(*c*) Has the grant been paid to the municipality?

The Honourable Dr. R. P. PARANJPYE: (*a*) This part has already been answered.

(*b*) and (*c*) The Hubli municipality first applied for a free building grant in respect of a house purchased by it for its Urdu girls' school No. 1, in December 1917. The municipality was asked by the educational inspector in his No. 8339 of 15th December 1917 to get the building inspected by the sanitary authorities and the Superintending Engineer and to communicate to him their approval as to its suitability for school purposes. No reply was received by the educational inspector from the municipality till July 1920 when that body repeated its request for a free grant. The application for a free grant of Rs. 10,953 received from the educational inspector, Southern Division, with his No. B.—7820 of 11th November 1920 was submitted to Government with the Director of Public Instruction's No. 19672 of 10th March 1921. The preliminaries required by the building grant rules have not yet been settled and no grant has been paid to the municipality.

*This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

† *Vide* Appendix V.

MAHOMEDAN GAZETTED HOLIDAYS.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state why Mahomedan gazetted holidays, public and sectional, are not to be included in the list of holidays for being observed in the civil courts ?

The Honourable Mr. M. H. W. HAYWARD: The grant of holidays in the civil courts is within the discretion of High Court.

BUILDING OF BHALEJ SCHOOL.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Are Government aware that the building of the Bhalej school in the Kaira district was built for Urdu and Gujarati boys' school, and that the Urdu school is shifted to the old building which is not commodious and that the Gujarati girls' school is accommodated therein ? Will Government be pleased to state why ?

The Honourable Dr. R. P. PARANJPYE: Enquiries are being made.

EXPENDITURE ON VERNACULAR TRAINING COLLEGES AT DHARWAR.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state—

(*a*) the expenditure incurred for the vernacular training colleges at Dharwar, Dhulia, Poona and Ahmedabad and Urdu training classes at Poona and Ahmedabad in detail for the years 1921 and 1922 ?

(*b*) What was the amount by which stipends which used to be given at the Urdu classes at Poona and Ahmedabad were reduced during 1921-1922?

The Honourable Dr. R. P. PARANJPYE: The information has been called for.

EXTRA COST ON URDU CLASSES.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state the extra cost involved in developing the Urdu classes into independent classes as per Government Resolution, Educational Department, No. 657, of 23rd December 1921, as compared with the extra cost involved in giving effect to the resolution of Anjuman-e-Islam, Ahmedabad, forwarded to the Government in July last ?

The Honourable Dr. R. P. PARANJPYE: Information has been called for.

ENGLISH TEACHER TO URDU SCHOOLS.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state whether any English teachers to first grade local board Urdu schools in Northern Division has been attached similar to one provided in Central and Southern Divisions ?

The Honourable Dr. R. P. PARANJPYE: No.

PROMOTION OF PERSIAN TEACHERS.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state whether any Persian teachers in Government high schools have been promoted to the post of assistant deputies as they advance in service ?

The Honourable Dr. R. P. PARANJPYE: Enquiries are being made.

INCREASED WORK OF MAMLATDARS.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): (*a*) Are Government aware that in a large number of cases of assistance suits, discretionary fines are not imposed on the inferior holders, with the consequence that the number of assistance suits and the work of mamlatdars has increased ?

(*b*) If so, have any orders been issued to check the tendency of inferior holders to delay the dues of inamdars ?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) Information will be called for.

(*b*) Orders have been issued from time to time.

INDEBTEDNESS OF SARDARS AND INAMDARS.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Will Government be pleased to state whether any steps are taken by Government to ameliorate the condition of indebtedness of some of the sardars and inamdars in the Deccan and the Karnatak ? And will Government be pleased to state the policy, if any, followed in this respect ?

The Honourable Sir IBRAHIM RAHIMTOOLA: No.

INCOME OF REGISTRATION DEPARTMENT, SIND.

Mr. DIPCHAND T. OJHA (Karachi City): Will Government be pleased to state what is the income of the Registration Department in Sind as compared with the other Divisions of the Presidency and the proportion of cost of the department in the whole Presidency excluding Bombay ?

The Honourable Mr. C. V. MEHTA: The information has been called for.

STIPENDS FOR URDU TRAINING CLASSES.

Mr. B. P. PATEL (Ahmedabad District): Will the Government be pleased to state—

(*a*) the total number of stipends for Urdu training classes available with the Government in the Presidency according to Government Resolution, Educational Department, No. 657 of 1921;

(*b*) how many of these were actually utilised in the Presidency proper;

(*c*) what was done with the balance;

(*d*) why were not the stipends all utilised by the divisional inspectors;

(*e*) how the total number 240 has been distributed at Poona, Hubli and Ahmedabad ?

The Honourable Dr. R. P. PARANJPYE: The information has been called for.

SHIFT SYSTEM IN URDU TRAINING CLASSES.

Mr. B. P. PATEL (Ahmedabad District): Will Government be pleased to state whether the Urdu training classes at Poona and Ahmedabad can be made independent by using the scheme of shift system ?

The Honourable Dr. R. P. PARANJPYE: Enquiries are being made.

STIPEND-HOLDERS AND DEPUTED TEACHERS IN URDU TRAINING CLASSES.

3. Mr. B. P. PATEL (Ahmedabad District): Will Government be pleased to state—

(*a*) the total number of stipend-holders and the deputed teachers per different year in the Urdu training classes in the Presidency;

(*b*) the total number for each of the year fixed by the department for these classes per division ;

(*c*) the total number of stipends intended to be spent by the department for these classes as per Government Resolution, Educational Department, no. 657 of 23rd December 1921 ?

The Honourable Dr. R. P. PARANJPYE : The information has been called for.

### Duty Allowance for Staff of Training Colleges.

Mr. B. P. PATEL (Ahmedabad District) : Will Government be pleased to state as to when the duty allowance for the staff of the training colleges of the Presidency will be sanctioned ?

The Honourable Dr. R. P. PARANJPYE : A duty allowance has already been sanctioned ; it has been attached for the present to 38 posts in the training colleges, which have been made interchangeable with the posts of assistant deputy educational inspectors.

### Criminal Tribes Act.

*Mr. A. N. SURVE : (*a*) Would Government be pleased to lay on the table copies of Government orders and notifications relating to the "Fatgudis", a tribe declared criminal under the Criminal Tribes Act and inhabiting Bassein and Mahim talukas of the Thana district ; and to state :—

(*i*) the number of Fatgudis registered under the said Act ;

(*ii*) the number of prosecutions (together with their results) instituted against the Fatgudis for being absent at the night roll-call during the different years commencing from the time when they were declared a criminal tribe under the said Act to the year 1918 (inclusive) ?

(*b*) Is it true that the Fatgudis residing within the jurisdictions of the police-patils of the different localities of the town of Bassein are restricted by a recent order from going beyond the limits under the jurisdictions of their respective police-patils even by day-time ?

(*c*) Had they complained against this order and requested the Collector of Thana to cancel it ?

(*d*) Would Government be pleased to place on the table a copy of the petition referred to in the preceding question together with the reply given by the Collector to it ?

The Honourable Mr. M. H. W. HAYWARD : (*a*) Fatgudis in Thana district were declared as a criminal tribe under Government Notification, Judicial Department, No. 7113, dated 21st October 1915. Their movements were restricted to Mahim and Bassein talukas under section 12 of the Criminal Tribes Act under Government Notification, Judicial Department, No. 2887 of 1st May 1916. The rules under section 20 of the Criminal Tribes Act were sanctioned in the Government Resolution, Judicial Department, No. 7667, dated 29th November 1918, and Government Resolution, Home Department, No. 8389, dated 27th August 1921. Copies † of Government notifications and orders are placed on the Council table—

(*i*) the number registered is 209 (150 in Mahim and 59 in Bassein) ;

(*ii*) there was only one prosecution in 1918 ; the accused was sentenced three months' rigorous imprisonment.

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* This question was asked at the meeting held in July 1921, when an *ad interim* reply was given.

† Kept in Secretary's office.

(*b*) It was so but the District Magistrate has exempted all registered Fatgudis *pro tem* from this provision.

(*c*) and (*d*) Copy * of the petition from the Bassein taluka together with copy of the reply given by the Collector is put on the Council table.

### Description of Visapur Jail.

Mr. C. M. GANDHI on behalf of Mr. PURSHOTAMDAS THAKURDAS (Bombay): (*a*) Has the attention of Government been drawn to a small pamphlet published at Sukkur by Mr. Bhojraj M. Ajwani describing what are called by him 'Tortures' of the Visapur jail?

(*b*) If the reply to the above be in the affirmative, will Government be pleased to put on the table a statement giving their refutal, if any, of the various statements made in the said pamphlet?

The Honourable Mr. M. H. W. HAYWARD: (*a*) and (*b*) Government have appointed a committee to enquire into the management of the Deccan Extra Mural Prison, Visapur. The Committee has been authorised, as part of the terms of reference, to receive and enquire into complaints of ill-treatment by present or former prisoners, and such persons including the writers of the pamphlet, will have an opportunity of substantiating their statements. Government do not propose to make any further statement pending the results of the enquiry.

### Poona Municipality's Address to Hakim Ajmal Khan and Pandit Motilal Nehru.

Mr. G. B. TRIVEDI (Thana District): (*a*) Is it not a fact that the sum of Rs. 500 unanimously voted by the Poona City Municipality for expenses in connection with the presentation of an address to Hakim Ajmal Khan and Pandit Motilal Nehru in the third week of July last was disallowed by the Commissioner?

(*b*) If so, what were the grounds on which his disallowance was based?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN HIDAYATALLAH: Attention is invited to section 56 (*m*) of the Bombay District Municipal Act, 1901, under which unnecessary expenditure of this kind requires the previous concurrence of the Collector. This the Collector, in the exercise of his discretion, refused to grant, because the visitors were touring the country in the interest of civil disobedience, and because the proposed expenditure appeared to be an act of extravagance on the part of a Municipality demanding and receiving large grants-in-aid from Government.

### Gambling Dens in Kurla District.

2. Mr. G. B. TRIVEDI (Thana District): (*a*) Has the attention of Government been drawn to the existence of gambling dens in Kurla Suburban District?

(*b*) What steps have been taken to check the evil.

The Honourable Mr. M. H. W. HAYWARD: Government have no information but have forwarded the question of the member for such steps as should prove necessary to the District Magistrate.

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* Kept in Secretary's office.

### Appointment of Advisory Board.

Mr. G. B. TRIVEDI (Thana District): Will the Government be pleased to state what steps they have taken for appointing an advisory board to assist the Honourable the Minister of Education as suggested by the joint select Parliamentary committee on the Government of India Bill 1919 ?

The Honourable Dr. R. P. PARANJPYE: The matter is under consideration.

Mr. G. B. TRIVEDI: Is it not a fact that a similar question was put in July 1921 and the reply was the same ?

The Honourable Dr. R. P. PARANJPYE: I do not remember.

The Honourable the PRESIDENT: The Honourable member by his supplementary question is giving information and that is contained in the official records of the Legislative Council to which every honourable member has access. Such questions cannot be allowed. He may ask any supplementary question arising out of the original question and its answer.

Mr. G. B. TRIVEDI: Cannot Government say when this will be done ?

The Honourable Dr. R. P. PARANJPYE: No.

Mr. G. B. TRIVEDI: Even after one year ?

The Honourable the PRESIDENT: That is argument.

### Treatment of Political Prisoners.

Mr. G. B. TRIVEDI (Thana District): Will the Government be pleased to state what action they have taken to give effect to the resolution passed by this Council at its July session on the subject of the treatment of political prisoners ?

The Honourable Mr. M. H. W. HAYWARD: A reference is requested to the reply given to Mr. C. M. Gandhi.

### Acquisition of Land in Salsette and Trombay.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will Government be pleased to make a statement as to the progress made by them in the matter of acquisition of lands in Salsette and Trombay ?

(*b*) Have they come to any decision as to what land is to be acquired and what is to be released ?

(*c*) If so, will they be pleased to state when they intend to inform the land owners of the exact position in which they stand ?

The Honourable Mr. H. S. LAWRENCE: (*a*) The information is being collected.

(*b*) and (*c*) Government have no intention at present of withdrawing from the acquisition of any of the lands notified for acquisition in Salsette and Trombay. As regards settlements with existing owners, the Member is referred to the answer given to Major Fernandes' question No. 1 at the session of March 1921.

### Reduction in Higher Staff of J. J. Hospital.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will Government be pleased to state whether they have made any reduction in the higher staff of the J. J. Hospital, Bombay, on account of their retrenchment policy ?

(*b*) If so, what is the reduction made ?

The Honourable Dr. R. P. PARANJPYE : No.

NUMBER OF SAFES PURCHASED IN REVENUE DEPARTMENT.

Mr. G. B. TRIVEDI (Thana District) : (*a*) Will Government be pleased to state how many safes were bought by them during the last 5 years in the Revenue Department ?

(*b*) How many of these were of foreign make ?

(*c*) And how many of Indian manufacture ?

(*d*) And how many of the latter were bought from Messrs. Godrej and Boyce ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Information will be called for.

RESTRICTION ON REMOVAL OF INJAILI TREES.

Mr. G. B. TRIVEDI (Thana District) : (*a*) Is there restriction in Thana District on the removal of (1) branchwood of Injaili trees and (2) parched leaves by carts ?

(*b*) Does this restriction cause hardship to cultivators for rab purposes ?

The Honourable Mr. C. V. MEHTA : Information has been called for.

LEVY ON CULTIVATORS.

Mr. G. B. TRIVEDI (Thana District) : (*a*) Are any fees levied on cultivators in Thana district putting up dams, for agricultural purposes, to divert in their fields rain water passing through Government forests ?

(*b*) If so, what is the justification for this levy ?

(*c*) Is this causing discontent amongst cultivators ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Inquiry is being made.

POPULATION AND ADEQUACY OF POLICE IN CERTAIN VILLAGES.

Mr. G. B. TRIVEDI (Thana District) : (*a*) What is the population of Tarapore in Mahim taluka and Chinchane in Dahanu taluka ?

(*b*) What was the strength of police force in these villages in 1921, and what is it now ?

(*c*) Have people of these villages complained against the total absence of police there ?

(*d*) What steps have the Government taken to meet the demand of these two places in this matter ?

The Honourable Mr. M. H. W. HAYWARD : There is no police station or out-post at Tarapore. The strength of the police outpost at Chinchane at the end of 1921 was 2 head constables and 3 constables unarmed. This outpost has since been removed in the general scheme of retrenchment in Police expenditure in the Thana District.

No such representation has been received by Government.

Mr. G. B. TRIVEDI : Is there no reply to my question (*a*) ?

The Honourable Mr. M. H. W. HAYWARD : The average crime during the last three years was only 19. The outpost has been removed under the retrenchment scheme upon this important fact. I have not enquired about the exact population. That is no doubt within the knowledge of the honourable member.

Mr. G. B. TRIVEDI: I want answer to my question (*a*), in order to see what the population of these villages is and whether there was any necessity for police at all.

The Honourable Mr. M. H. W. HAYWARD: The information is surely within the reach of the honourable member. He represents the Thana district.

The Honourable the PRESIDENT: What is your question?

Mr. G. B. TRIVEDI: I want answer to question (*a*) as regards the population of those villages.

The Honourable the PRESIDENT: The Honourable the Home Member says that the information required in question (*a*) is as accessible to the honourable member for Thana as to any member of the public, and that, therefore, it is not necessary for Government to ransack all their records for this purpose. The honourable member for Thana may take the answer for what it is worth.

### Grant of Gurcharan Land.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will the Government be pleased to state on what conditions about 3,500 acres of Gurcharan land at Mahim taluka were given to Mr. Motibhai Bhikaji?

(*b*) Is the land now in possession of Mr. Jamshedji Khudaram Irani?

(*c*) How much of this land is used for fishing purposes by Mr. Irani?

(*d*) Has he built a dam for the said purpose?

(*e*) Does the dam prevent the rubbish of the village from being washed away by the sea water?

(*f*) If so, what steps have Government taken to get the dam removed?

The Honourable Mr. C. V. MEHTA: Information has been called for.

### Presidents of District Local Boards.

Mr. P. N. ADHAV (Satara District): Will Government be pleased to supply the following information:—

(*a*) Names of the presidents, district local boards, presidents nominated by Government?

(*b*) If there are a majority of Brahmin presidents, has Government ever tried to find out other than Brahmin candidates suitable for the post?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN HIDAYATALLAH: (*a*) The accompanying list* gives the names of the presidents, district local Boards.

(*b*) So far as Government are aware, the majority of presidents are non-Brahmins.

### Admission of Students to Government High School.

Mr. P. N. ADHAV (Satara District): Will Government be pleased to give the following information:—

(*a*) Number of students admitted into the Government High School, Satara, from villages in the district outside Satara city and camp from March to June 1922?

(*b*) Number of free and half-freeships available for pupils of—

(*i*) Advanced classes,

(*ii*) Marathas,

(*iii*) Depressed classes?

* *Vide* Appendix W.

The Honourable Dr. R. P. PARANJPYE: The information has been called for.

### House Surgeons in Civil Hospitals.

Mr. S. K. BOLE (Bombay City, North): Will the Government be pleased to state—

(*a*) Why the posts of house surgeons at the big civil hospitals are not given to qualified Indian doctors ? and

(*b*) Why should Indian hospitals have Anglo-Indian military assistant surgeons as house surgeons ?

The Honourable Dr. R. P. PARANJPYE: The matter is under consideration.

### Agricultural Experimental Farms.

Mr. S. K. BOLE (Bombay City, North): (*a*) Will the Government be pleased to state whether agricultural experimental farms are being worked at a great loss ?

(*b*) Are the agriculturists any way benefited by these experiments ?

The Honourable Mr. C. V. MEHTA: (*a*) Agricultural experimental farms are not run as business concerns and cannot be run at a profit.

(*b*) Yes.

### Appointments of School Masters in Satara District.

*Mr. B. V. JADHAV: (*a*) Will Government be pleased to state how many new appointments of school-masters were made in the Satara district since January 1st, 1921 ?

(*b*) How many of these were Brahmins; and

(*c*) What was the number of applications from Brahmins and from others ?

The Honourable Dr. R. P. PARANJPYE: (*a*) 60 since January 1921 to 31st July 1922.

(*b*) 25.

(*c*) The number of applications from Brahmins and non-Brahmins was 350 and 500 respectively.

## PRIMARY EDUCATION BILL (BILL No. XVII of 1922).

(*Debate on the first reading resumed.*)

Mr. G. C. BHATE (Kolaba District): Sir, I feel I must heartily join with my honourable friend from Thana in congratulating the Honourable Minister for the bold step he has taken in introducing the bill. The magnitude of the question is evidenced by the able report of the committee appointed for the purpose and it is a matter of commendation that the Honourable Minister has been able to put before the Council this bill in such a short time.

As the House knows the bill embodies two main principles: the first is compulsory elementary education, and the second point is to make better provision for the management and control of primary education in the Bombay Presidency. So, we shall have to look at this bill from these two points. The Honourable Minister has told us in his opening speech that the bill is a

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

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framework. That statement of his has a great potential value. From that statement it appears, that the main principles being accepted the select committee will take into consideration any suggestions that may be made in the debate. At this stage of the first reading therefore we are to see how far the principles of the bill are acceptable. Looking from that point of view, it appears that the bill has removed voluntary compulsion introduced by the Act of 1918. According to the Act of 1918, it was left to the option of the municipalities to which alone it applied to introduce compulsion. In his opening speech the Honourable Minister has told us that that Act was a failure ; and therefore the smaller municipalities have not been allowed the right to manage their own schools and have a school committee of their own. As regards that failure, the reason was not that there was any apathy on the part of the people for compulsion, but because of the financial difficulties of the municipalities themselves. From my own experience I say had the Government come forward at that time with liberal grants, as it is now provided in the bill of two-thirds of the total expenditure, many municipalities would have taken advantage of that Act. In my own municipality, we prepared a programme and asked Government to assist us with grant amounting to two-thirds of the total expenditure as it was found impossible to go in for compulsory education without such substantial increase in the usual grant. As the Government refused to increase its grant, the matter had to be dropped there. The failure is not, therefore, due to the apathy of the people but on account of the financial stringency of the municipalities. Now, this voluntary compulsion has been removed by clause 8 of the present bill. This clause is divided into two parts, one which relates to the duties of local authorities, and the other to the duties of Government. As regards this clause 8, the first thing that strikes the observer is that this clause makes no mention about the maximum period within which compulsion must be introduced. Suppose a local board does not do anything after the passing of this Act for five years and the Government also does not do anything, what is the remedy under the Bill ? Nothing. My submission therefore is that provision should be made that Government should ask the local authorities to introduce compulsion, within a certain period and if they fail, Government must do it.

Then, I come to clause 10. Even as regards this clause something must be said. The clause runs thus :

" The Government may after such enquiry ....."

The Honourable the PRESIDENT : May I remind the honourable member that I have allowed free scope to the discussion and also reference to particular sections for the purpose of illustrating general remarks on the principles of the bill : but he cannot take every section piecemeal and then find a principle in it and then say it ought to be amended. That will be good matter for the second reading and the select committee. I think the honourable member for Ratnagiri has set a good example to show how the general principles can be discussed with reference to particular sections, and I think if the honourable member follows his example he will be on safe lines.

Mr. G. C. BHATE : Sir, what I was going to say was that clause 10 leaves it in the hands of Government whether to sanction a scheme or not. It is quite vague, which is not desirable. Clause 11 deals with the payment that Government have to make for financing the scheme. There is no mention about any definite extent to which the Government will finance the scheme. The Honourable Minister in this introductory speech has said that the Govern-

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ment will give the present grants *plus* two-thirds of the new expenditure in the case of the local boards and one-third of the new expenditure in the case of the municipalities. Now, this statement must form a provision of the Act itself, so that the local boards could rest assured that if they took upon themselves to introduce compulsory education they would get the present grants *plus* two-thirds of the new expenditure.

The Honourable the PRESIDENT: Is there any precedent either in India or elsewhere, where out of the general revenues a specific portion is earmarked by a statute for a particular object or item of expenditure? Is that constitutional? My attention was called by the honourable member for Ahmedabad to the Goschen Act, but it turned out that it was a finance bill. In the case of a finance bill which emerges out of the budget and is voted by Parliament on the recommendation of the Crown, a particular portion of the budget estimates is appropriated for some specified purpose such as education, but there such bills are annually introduced as a corollary to the budget resolutions. I cannot allow the Council and the Government to be let in unawares on a point like this. However, I will allow a discussion of the questions, but I only warn the Honourable the Minister in charge, who, when and if this bill passes the first reading, will be the chairman of the select committee, to bear that in mind.

The Honourable Dr. R. P. PARANJPYE: On that point, I would like to know whether clause 11 is constitutional.

The Honourable the PRESIDENT: Government can propose a proportion. When they propose, it is presumed that the proposal is made on the recommendation of His Excellency the Governor as required by Rule 30 (1). Such a proposal creates a charge upon the public revenue and must receive the recommendation of the Crown before it can be entertained by the House.

"Accordingly if any motion or bill or proceeding is offered to be moved, whether in the House or in a Committee, which requires but fails to receive the recommendation of the Crown, it is the duty of the Chair that no question can be proposed on the motion or to direct the withdrawal of the bill" (May: 457).

The question is whether a specified portion of the revenue of the taxpayer can be proposed to be set aside for a particular purpose by a bill at the instance of an honourable member who is not a member of Government. I should like to know what the Honourable the Finance Member has to say in the matter.

The Honourable Mr. H. S. LAWRENCE: Your ruling is most excellent, Sir.

The Honourable the PRESIDENT: It is not a question of its excellence.

The Honourable Mr. H. S. LAWRENCE: You are absolutely correct, Sir.

The Honourable the PRESIDENT: It is a constitutional question. Can the legislature fix a particular proportion of the general revenues to be appropriated for a particular purpose and fix it for a longer period than one year beyond the year's budget? Suppose there is a deficit in a particular year and Government have no money sufficient for the purpose, then what is Government to do? It must disobey the Act of the legislature. The question is whether the Council can agree to such a thing even if the Honourable the Minister in charge comes with a recommendation from His Excellency. I may be right or I may be wrong. It has not been done in any Act of Parliament that I know of. I have tried to go into the question, and that seems to me to be the position, as at present advised. I ask the Council and particularly the Honourable the

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Minister in charge to bear that in mind should the point arise if and after this bill passes the first reading. I give no final ruling now.

Mr. G. C. BHATE: What I submit, Sir, is that if there is no constitutional difficulty, it ought to be laid down in the Act itself that the present grants will be maintained by Government and that two-thirds of the new expenditure in the case of local boards and one-third of the new expenditure in the case of municipalities, will be borne by Government.

Then, when we come to the management clauses, we see that the management of the whole primary classes, that is, from Infant class to the VII standard as they are at present, is it to be managed by the school board which is to be formed under this bill when it becomes law. Now, as regards this management, one thing that strikes me is that the management of the primary schools by the municipalities has been taken away by this bill. As regards this matter, however, there is a recommendation of the Compulsory Education Committee that the management can be taken out from the hands of the smaller municipalities. However, they say in their report at page 37:

"We are in favour of the schools of all smaller municipalities being managed by district councils or a committee thereof, but we feel that some of them may consider that authority which they already enjoy is being taken away from them and for this reason we are disposed to give them the option of continuing to manage their schools directly subject to the approval of Government."

That is the recommendation of the committee and I think that recommendation ought to have been embodied in this bill. If a municipality is unwilling to manage the schools, well and good; the management can be transferred. But if a municipality is willing to manage their schools, then, of course, the management ought not to be taken out of their hands and some provision should be made in the bill on that score. In the opening remarks of the Honourable Minister it was said that municipalities with a population of 50,000 and above would be considered larger municipalities and all other municipalities where the population is below 50,000 would be considered as small municipalities. So a municipality like that of Roha will be considered a small municipality for the management of schools. So I say some provision on the lines of the recommendation of the committee should be made in this bill.

Then, as regards the last clause, about the rule-making powers, which the bill proposes to give to Government, all the vagueness in the clause ought to be removed. As regards the rules, one suggestion that can be made is this, that whatever the rules might be as framed by Government, they should be placed before this Council and they should be approved by the Council before they take the force of law. With these words, I strongly support the first reading of the bill.

Mr. IBRAHIM S. HAJI (Bombay City): Sir, the early years of this century form the landmark of the national demand for compulsory education in this country. It is, indeed, gratifying to see the introduction of this bill for compulsory primary education into this Council, for this bill gives Bombay the first honour, in the length and breadth of this peninsula, of introducing such a measure. The souls of the great men who fought in the battles for compulsory primary education in this country will smile when this bill is passed into law, of course with the necessary modifications. Dadabhai Naoroji, Telang, Ranade, Gokhale and Pherozeshah Mehta gave their best in insisting on the birthright of free education to the masses. Their names can be blessed, Sir, with happy memories. Their battles remind us.....

The Honourable the PRESIDENT: May I crave leave to remind the honourable member that this historical survey is instructive and interesting, but it is not relevant to the present debate concerning the principle and the general provisions of the bill under consideration.

Mr. IBRAHIM S. HAJI: I am thankful to you, Sir, for your remarks, but the importance of this bill.....

The Honourable the PRESIDENT: Order, order. I hope the honourable member will accept my ruling and abide by it.

Mr. IBRAHIM S. HAJI: I do submit, Sir, that this bill is an important measure, particularly when it reminds us how the primary education has been delayed to this stage. The primary education movement, Sir, was formerly wrecked on the rock of bureaucracy, on the ground of barren finances and also on the ground of want of concord and harmony amongst the Hindus and Moslems of this country. To-day, Sir, we find that out of these three obstacles, the present bill has only to steer through the barren desert of finances, for which I am afraid this bill will suffer a great deal. It is not that we shall not be able to carry it into the statute book, but I am afraid that its practical working might be delayed for want of funds. Sir, in 1903, in the budget discussion of the Imperial Legislative Council also it was made clear that compulsory education—for the ignorance of the great majority of the people is the fundamental cause of their extreme poverty—was quite necessary, and that for the good of the country compulsory education must come. It was in 1912 that the Honourable Mr. Gokhale of happy memory introduced a bill for compulsory education, which, however, failed. Then in 1917 Mr. Patel's bill was passed of which this bill, Sir, is an enlarged edition. Mr. Patel's bill, Sir, had made a provision for compulsory education only in the municipalities, but this bill, Sir, goes a bit further and extends the scope both to the municipalities and the local areas. I beg to submit, Sir, that as the bill is worded to-day, in some of its aspects it is a retrograde bill as compared with Mr. Patel's bill. For, let us examine it with respect to the financial position of the local board areas. On page 10 of the report of your committee, Sir, it is said that "the total grant now amounts to the expenditure *minus* local fund cess and fee receipts". The Honourable Minister in charge of the bill has, therefore, rightly said that the local board areas are practically supported in the compulsory education movement at the expense of the Government. But the Honourable Minister of Education has given us the exact proportions of financal liabilities, namely, 12 per cent. will be obtained by the local boards themselves by one anna cess and 88 per cent. from the Government. Now, according to this bill, it is provided, Sir, in clause 11 that—

> "The Government shall agree to bear half the recurring annual cost of the scheme if the local authority is a municipality and two-thirds of the said cost if the local authority is a district local board not exceeding however half or two-thirds, as the case may be, of the cost as estimated by the local authority."

I beg to submit that this provision of finance for the maintenance of education in the local board areas is indeed a retrograde motion. For, before this bill was introduced, or, as I might put it, at present they are getting more than two-thirds or practically the whole amount whereas the Honourable Minister in charge of the bill provides only two-thirds from Government and one-third is to be found by the local authority. Now, Sir, if the Patel Act has failed, it is for the lack of finances, and unless greater facilities as regards finances are offered to the municipalities and district local boards, I submit, Sir, that this bill will also remain a dead letter. As regards the district local boards at least, I hope the Honourable the Minister in charge of the bill will

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see his way to increase the grant from the Government to the local board areas to a larger extent than is provided for in this bill.

Now, I come to the position of municipalities. Municipalities are supposed to be very favourite with the Honourable the Minister in charge of the bill. He has given them neither a decrease nor an increase. I must say the Honourable the Minister in charge is fully aware that the future powers for taxing the localities under the Local Boards Act are not so immense as they are under the Municipal Act. The power to secure money and the ability to gather more money for the purposes of compulsory education are more on the side of the municipalities as compared with the power and ability of the district local boards. I submit, therefore, that the Honourable Minister will see that sufficient provision is made by reducing the grant from the Government to the municipalities and increasing the grant to the district boards. Now, Sir, the facilities for education in the municipal area are much greater as compared with the facilities in the local board areas. It is the district, Sir, that contributes mostly towards the provincial exchequer; therefore, the district has got the right to have the first demand on the provincial exchequer for primary education. I therefore submit, Sir, that considering the facilities which are existing in the municipal areas compulsory primary education could be enforced in those areas at a cheaper cost as compared with the district local board areas. I hope therefore the Honourable Minister will see his way to take more from the municipal areas and give it to the district local board areas.

Then, Sir, as regards the question of Mahomedan compulsory education, I may say the Presidency proper will not have much difficulty, but as regards the Province of Sind the question of compulsory education forms a problem by itself. That province is very conservative and orthodox, and that being so, if proper measures are not taken, compulsory education in that province will not be profitable as it is desired. It has been stated in the report of the Compulsory Education Committee that the Mulla schools in Sind have been doubled and they are said to be improving and it is also stated in the report that if the unsatisfactory ones are weeded out, others might be recognized for compulsory education. I am afraid without the means of Mulla schools the question of compulsory education in Sind cannot be solved. My honourable friend from Sukkur (Mr. Pahalajani) has stated in his note on the special features in Sind that the Mulla schools are all fraud. Well, fraud or no fraud, if the school board of the local bodies is composed of most of Mahomedan members I will have no fears to entertain, and Mulla schools will no doubt in that case have proper searching and handling from the members of the school board. In his dissenting minute the honourable member for Karachi city (Mr. G. H. Kassim) has very well said that the people in Sind are conservative and that the Mulla schools are necessary in so far as they contribute not a little to the disarming of popular prejudice against education by pandering to the popular desire of religious instruction. Mulla schools, Sir, give elementary education to Mahomedans and they are therefore necessary so far as primary education of Mahomedans is concerned. I have no doubt that the school board which is to be created under this Primary Education Bill would improve upon the Mulla schools, and I am sure the Honourable Minister in charge of the bill would like to bring Mulla schools under the recognized schools—or approved schools—in that part of the Presidency, namely, the province of Sind.

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The education of Mahomedans in the Presidency proper needs no comment from me as the Mahomedans of the Presidency proper are quite in touch with a large majority of their Hindu brothers who I am sure are willing and prepared to move with the spirit of the age, and I am quite sure that when proper facilities are given for their education in the rural schools,as also in the municipal schools, they need have no grievance. I submit, Sir, that Mahomedan members will not be disappointed to have this compulsory education in the Presidency proper.

The question of girls' education is still a greater problem with the Mahomedans. Special provisions and facilities will have to be made in this matter if this Council decides that compulsion must also fall upon girls. I am of opinion that no differentiation should be made between the stronger and the weaker sex. It is in the interests of the nation and the country at large that the boys and girls should have their training at an early age. Both should have equal facilities and particularly the sex which is susceptible to great religious instruction and sentiment. And therefore, I submit, facilities have to be provided in a larger way in the case of girls than in the case of boys. If necessary precautions are taken and provided for either by means of rules which are to be made under this bill or by means of insertion of a clause in this bill, I am sure my community will rise to the occasion for getting on in the interests of the country. Sir, as the reforms scheme has opened the way for self-government to this country, one would certainly expect a responsible Minister to bring in a measure of this sort and I am quite sure this House will congratulate the Honourable the Minister in charge for having introduced such a popular measure at the early stage of the reformed council. (The honourable member at this point commenced to read a quotation which was inaudible.)

"* * * *I cannot help feeling that when the principle of compulsory education is carried out successfully and the idea is realised without obstruction, the India of to-day will be to-morrow a second Empire as a self-governing state in the British Commonwealth. Education in India is twice-blessed—it is a blessing to the masses and a blessing to those....."

The Honourable the PRESIDENT: Are you reading a speech or a quotation from somebody else's speech ?

Mr. IBRAHIM S. HAJI: I am reading a quotation.

The Honourable the PRESIDENT: Long quotations are not allowed. The Council would no doubt be delighted to have your own views instead of quotations from speeches of others which are available to all of us elsewhere. Quotations, so long as they are concise—one or two sentences—are allowed, but not a long quotation.

Mr. IBRAHIM S. HAJI: Finally I submit to this House that sooner or later this movement for compulsory education will be placed in a manner that will have to create extra taxation for this particular work. This is the most crucial point on which the success of this bill lies. But how is it to be solved ? I beg to submit, not by means of further taxation on the masses but by means of complete and strict retrenchment in the top-heavy administration of Government.

Mr. S. T. KAMBLI (Dharwar District): Mr. President, the bill before the House is a very important piece of legislation. I may say it is of first-rate importance. In order that it may be completely acceptable to the people and in order that it may do complete and whole-hearted good to the people of this Presidency, it requires certain modifications and changes in certain

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important respects. This bill, I am quite sure, if it is worked out in a right and monetarily liberal spirit both by the local bodies and by the Government in co-operation with each other, will cause considerable changes in the condition of society in this Presidency, and will bring benefit of the three R's to every village and every hamlet and to the house of every labourer and every peasant in this Presidency. It will help to create an independent and intelligent public opinion which is so much needed in this critical time in the history of India in the absence of which there is felt a serious handicap often-times in the smooth administration of the Presidency.

Now, Sir, coming to the object of the bill, the first sentence in the statement of objects and reasons runs as follows: "The object of the bill is to give effect to the recommendations of the special committee". May I say, Sir, the object of the bill as stated in the statement of objects and reasons does not contain the whole truth but it is only partially true? In this connection, I refer to two most important recommendations of the special committee. The first recommendation lays down the introduction of compulsory education as the ideal and goal to be aimed at. The second and most important recommendation refers to the line of action, it sets up a time limit within which this ideal or goal should be an accomplished or realized fact. Looking to the provisions of the bill, one could see that this time limit is conspicuous by its absence. On this point, I am inclined to be a little pessimistic about the results of this bill. Was it not in the absence of such a provision in the Act of 1918 that the failure of that Act was caused, and may I not think that the absence of time limit will cause inaction both in the local bodies and in the Government in successfully working out this Act? Therefore, I hope that the select committee will see its way to insert a time limit in the provisions of this bill.

Sir, the Honourable Minister of Education has told us that this bill will be worked out in the spirit of recommendations made by the special committee. Sir, with regard to the recommendations of the special committee, I am not in agreement with some of them, specially with regard to the introduction of compulsion or of the establishment of schools in villages which are now school-less or unprovided with schools. If the bill is to be worked out according to the lines chalked out by the special committee, the result would be, as some members have said, that it will be offering food to those who are already fed and starving the hungry. Sir, is it not a special concern of this Council that we should first bestow attention on and provide facilities for educating the children in those villages which are still unprovided with schools even after 150 years of British rule in this Presidency? And are these villages to go unprovided with schools when compulsion is to be applied in those villages and towns which are already provided with schools? Here, Sir, I cannot but refer to the able and masterly minute of dissent recorded by the honourable member for Belgaum, wherein he has made out a very strong case after advancing facts and figures and giving cogent reasons for showing and convincing that we must first establish schools in places and villages which are school-less now. Looking to the facts and figures given in the report, it will be seen that there are nearly 26,000—speaking in round numbers—towns and villages in this Presidency. Out of these, as has been pointed out in the report, 16,000 villages are still unprovided with schools; there are only 10,000 towns and villages provided already with schools. Is it not our duty, is it not our imperative duty I ask, to see that the 16,000 villages are first provided with schools, before we

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launch upon a scheme of compulsion in villages and towns which are provided already with schools ? It may be said that some of these villages are so small that it is not possible that any school could flourish in them. But, looking to the fact that nearly half of them, that is nearly 8,000, contain a population of more than 250 that argument is untenable and unsound. At any rate, those of them which contain a population of more than 250 and which are not provided with a school should be the first care and concern of any scheme either of compulsion or of the voluntary principle to be adopted under this bill. So, I beg to submit to this House that the question of the provision of schools for these villages ought to be the first and foremost concern of any scheme now or hereafter.

Now, coming to the question of the policy laid down in clause 11 of this bill, I may at once say that the Government have made a complete departure from the policy they have hitherto adopted. When the bill of 1918 was under discussion in the Council, Government gave the Council distinctly to understand that they would not make any agreement as to bearing any extra expenditure in connection with the introduction of compulsory education. We see in this clause Government have made a bold departure from the old policy and they agree to bear half the recurring annual cost of the scheme if the local authority is a municipality and two-thirds of the cost if the local authority is a district local board. This is a very salutary principle, and the Government deserves the gratitude of this Presidency for this bold departure from the old policy.

Now, Sir, with regard to the question whether this policy will be sufficient to make this scheme fructify in the case of municipalities, this is a very important question. Up to this time, the policy of the Government had been to bear half the cost of primary education in municipal areas. Under the Act of 1918, the Honourable Minister of Education has told this House, only four or five municipalities hitherto have been able to introduce compulsion within their areas. As has been pointed out by many honourable members it was not owing to the opposition of the people that many municipalities had not been able to introduce compulsion but that it was due to one reason and one reason alone—it was on account of their financial inability that the Act of 1918 was not applied by the municipalities in their respective limits. I know, Sir, that many municipalities approached Government for increase of grants, and, in the majority of cases, the reply was one and the same—want of financial ability of Government to assist municipalities. Up to this time the policy of the Government was to finance the municipalities to the extent of half of the cost of primary education. Looking to the provisions of the bill, it will be seen that the old ratio is to be kept up. With regard to the expenditure which Government is going to bear in the case of municipalities, Government undertakes only to bear half the expenditure on primary education. This policy takes us no further. If this ratio is going to be adhered to, I am afraid that compulsion will not be applied as zealously or as soon and as speedily as they would otherwise have done. So, unless Government comes forward with more liberal grants to meet the case of municipalities, it will not be possible for them to apply compulsion in their areas in the near future.

I now come to the question of management as provided in this bill. In this connection, I want to point out one thing, and that is that clause 6 provides that wherever a school board is established, then the existing primary school committee in any municipality shall cease to have any control over the primary education. I think, Sir, that this clause is unnecessary in the

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case of the big municipalities. Up to this time, these big municipalities have been looking to the management and control of primary education in their areas, and they have been successfully working out the provisions of the Act. Now, simply because compulsion is to be introduced in their limits, to take away from them the control which they at present have over the management of their schools, and to entrust it to a school board, the constitution of which will be quite different from that of the school committee, would be casting a slur upon the present management of primary education by the municipalities. The new school board will also add to their expenditure. If the school board is brought into existence, it will demand a new administrative officer, and his special establishment and the municipalities will have to bear all this unnecessary and additional work. If the present school committees, which came into existence under section 28 of the District Municipal Act, are empowered to have the control and management of primary education in their limits, the municipalities, having a secretary, a chief officer, and so many other administrative officers, can entrust the work of supervising and the management and control to all or any of these various administrative officers of the municipality. So, there is no necessity, in the first place, for dispensing with the existing school committees in district municipal areas, and, secondly, there is no need to appoint a special officer in the case of municipal areas.

Now, Sir, coming to the question of the constitution of the school board, it is really a good idea that the management should be entrusted to a body which may be constituted separately and distinctly from the district local boards, but I take exception to the method of constitution of the school board. It is laid down in clause 3 that the board shall consist of not less than ten and not more than fifteen members. Of these, the Government appointments may not exceed three, and the remaining members are to be elected by the local authority and are to include persons experienced in education, women, representatives of minorities, etc. That is to say, supposing a district local board resolves to appoint a school board of fifteen members, three will be nominated by Government; then there remain twelve; out of these twelve some places will have to be set aside for women, some places for persons experienced in education, some places for representatives of minorities, and if some municipalities are included, then some places will have to be set aside for the representation of municipalities. Practically it may come to this, that although a district local board has to find the money for the introduction of compulsion, so far as the management of the schools in their area is concerned, they shall have to appoint persons not from amongst themselves, but they shall have to appoint persons, the majority of whom will be outsiders, and not members of the district local board. Also, the word 'minority' which has not been defined in the bill may lead to endless complication and needless difficulties. So, it will be necessary to modify the provisions of this clause by at least mentioning that after setting apart a certain proportion of places for women, for persons experienced in education, and for representation of minorities, and municipalities, the rest of the members shall be from among the members of the board. Otherwise, if outsiders are to come in in an indirect way, and if the district local board is to be made wholly elective, then I certainly say that the elections will not arouse the necessary enthusiasm, and that good persons will not stand as candidates for election, for the important reason that the management of the schools will be entrusted to other persons, and that they

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will rather stand as candidates for election to the school board only. I concede that the school board is essential; but, as I have pointed out, the method of its election and constitution will, I hope, be looked into and amended by the select committee.

I now come to another important question that has been provided in the bill, namely, the question as to how children's attendance shall be enforced in schools. Machinery has been provided for the infliction of punishments. In the first place the patels are given this power and then the magistrates. Looking at the fact that people in this Presidency regard infliction by a magistrate of punishment as something like a slur cast on their character and reputation, may I suggest that the powers given under this bill to the magistrate of inflicting punishment may be transferred to the school board or to a special committee to be appointed by the district local board for this purpose? With these few remarks, I give my support to the first reading of the bill.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Sir, the bill before the Council is a courageous step towards the introduction of compulsory elementary education and as such it is a welcome measure. The administration of compulsory education cannot be separated from the general administration of primary education and it is proper that the two things have been combined in the bill. But, in doing so, the bill has trenched upon the powers vested at present in municipalities in the matter of primary education. This is not exactly what the Compulsory Education Committee has recommended. It states in its report:

> "The District Councils, City Municipalities, and such non-city Municipalities as have been specially approved by Government shall be the Local Educational Authorities for the purpose of primary education within their respective areas."

The bill, however, transfers the management of primary education from non-city or town municipalities to district local boards and in the case of city municipalities the bill restricts the administration of primary education to such bodies as have been specially approved by Government. I submit that this is not a sound principle. Town municipalities may be made to hand over primary education to district local boards, as the former cannot afford its cost. But city municipalities have got financial resources and they have acquired the requisite experience to manage and control primary education in their areas. In England at one time elementary education was in the hands of separate school boards, but the arrangement now is that every county council, every council of a borough with more than 10,000 inhabitants, and every council of an urban district with more than 20,000 inhabitants is a local education authority "for purposes of elementary education". I submit that this bill also should embody that principle with such reservations as may be necessary. The city municipalities must be allowed to manage their own primary education with the proviso that in special cases Government may have power to transfer the subject from their hands to those of local boards. For this purpose, city municipalities may not be those defined as such in the District Municipal Act but those with a population of 30,000 and more. As regards the smaller municipalities which are not allowed to have any direct hand in the management of primary education these bodies must be severally represented by at least one representative for each on the school board which will be formed by the district local board to manage primary education in their area. In the body of the bill a distinct provision ought to be made to that

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effect. In the school board matters concerning finance, education, etc., will have to be decided. Unless these small local bodies are distinctly represented on the board, I do not think they will have any interest in educational matters. Besides it is not fair to leave a municipality unrepresented on the board which will spend money for which the municipality will have to find money by levying taxes.

Further, the term of the school board has not been defined in the bill. No doubt there is a definition of the school board's term in the Local Boards Bill, but in this bill the term has not been fixed. As the bill stands, it is quite possible for a district local board to have two school boards under the two enactments, one with a fixed term and another without any term.....

The Honourable the PRESIDENT: Surely the honourable member is a lawyer, and he ought to know that there is a definition in an Act of this legislature. If there is no definition of that term in any other Act, the definition in the previous Act will govern the interpretation of the later Act. The two bills seem to be intertwined, at any rate, for the purpose of education. The honourable member need not trouble himself about it. I assure him.

Rao Bahadur R. M. NILKANTH: With regard to the powers of making rules and powers of internal administration some of my honourable colleagues have rightly pointed out that there is too little left for the local authorities. Even in the case of the administrative officer, his pay and power are to be prescribed by Government while the local authority has to pay him and take work from him. I beg to submit that the local authorities which have to find money for expenditure on primary education must also have the right to make their own rules and regulations. The Government may have its determining voice. Under the District Municipal Act the municipalities are given power to make rules with the sanction of Government. This bill however leaves the whole power of making rules in the hands of Government entirely. The power of making rules in a similar manner should be given to local authorities under this measure, and that will give greater freedom to them. Government might make model rules which local authorities might adopt with such alterations as may make them suitable to their needs.

Coming to the question of finance, I do admit that it is right that the local bodies which want, or which are required by Government to introduce compulsion must find the money for it, but the present bill has no scheme for that principle. The local authorities, either a district local board or a municipality, must be given statutory power to levy an educational cess. Such a course will enable them to realize their responsibility in the matter. I do not think that it is proper that the local bodies should be called upon to meet expenses on education from their general revenues. Local bodies have other statutory duties, and revenues raised by taxation for the discharge of those functions ought not to be diverted to the purpose of education, particularly when compulsory education is introduced. I may point out that the smaller municipalities and district local boards are unable even to pay their teachers. They have little money for the performance of other duties. The general revenues of local bodies should not therefore be mixed up with the resources and funds required for the purpose of introducing compulsory education.

Coming to the question of control this bill gives the whole power to Government, and the local authority, whether a local board or a municipality,

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can be compelled after default under the provisions of this Act, but there is no provision for compulsion in case of default by a school board. The school board is quite independent after it is once constituted. I submit that the local authority which finds money for the primary education and is responsible for the scheme, ought to have some voice in the administration of the school board, and some supervision over the school board. The bill ought also to provide that Government will be able to compel the school board to perform its duties.

Again, the bill does not provide when Government should consider a district ripe for compulsory education. Of course the report of the committee points out that different parts of the Presidency are not uniform in this matter: there are several districts which are backward and several districts in which the demand is not insistent. I admit that it is not possible to have a statutory time limit for this measure. I hope that the various recommendations of the committee will be carefully considered by Government in exercising their powers of compulsion. With these remarks, I support the first reading of the bill.

The Honourable the PRESIDENT: Before I call upon non-official members, let us have an official speech. I will call upon the honourable member, the Director of the Labour Office (Mr. Shirras).

Mr. G. FINDLAY SHIRRAS: Mr. President, it will be admitted that the speech of the Honourable Minister on compulsory elementary education was worthy of the reputation which he has already won in this House. It was one of moderation and strength and well considered. The speeches of honourable members who have criticised the proposals have also been full of good things and have been free of all personal malignity. I propose briefly to place before the House one or two facts which appear to me not to have been sufficiently dealt with, and I hope that when all facts of the case have been considered by the House, the bill will be sent unanimously to the select committee.

I think that I can speak for my official colleagues sitting behind the Government front bench when I say that we are proud to stand with the Minister in what is perhaps, if not the most important, at least one of the most important of the bills that have ever been introduced in any Legislative Council in this country since the Reforms.

Before I refer to these points I should like, Sir, to state that the Compulsory Education Committee has produced a report which is a State-paper of first importance. It is a fine, massive, and comprehensive piece of work, and no one who has read it would wish it to blush unseen and to waste its fragrance on the Secretariat air. The report was signed on the 15th of May and the bill which I hope to show to be sound in principle has been presented with the least possible delay.

Before proceeding to put forward certain statistical facts of compelling interest for the consideration of the House, I desire also to emphasise generally the necessity of improving our present position. I had the honour of being one of India's representatives at an Imperial Conference which met in London in 1920, and I remember the questions put to me by a representative of Australia at that Conference regarding the extent and causes of our backwardness in literacy. I felt, I may say, the necessity of our pushing along quickly with compulsory primary education if we are to obtain a high place in the councils of the Empire and if we are to accelerate the pace to attain Dominion self-Government.

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Since I came to Bombay, I have been almost daily brought into contact with difficulties which can be cured only by more and better education, and that education, I fear, must be of a compulsory kind. The greatest need in our labour problem at present is the need of better education. Education will make a decent life for all. A national higher standard of living cannot be obtained by an act of volition; its achievement depends upon economic possibility and that economic possibility in turn depends on education. It is useless to disguise that fact, however disagreeable it may be. Strike after strike occurs in Bombay and the worker is frequently at a loss to know the cause of the strike owing to lack of education. Again many petty tyrannies of life are engendered by ignorance. A few days ago there was a case, for example, of a hundred women striking in a mill because the forewoman was said to have exacted four annas per month from each woman worker. If I may be allowed to quote from the report of the lady doctor appointed in connexion with maternity benefits—the report was published in the *Labour Gazette* of September issued a few days ago—the House will see how much in another direction is put up with owing to sheer ignorance.

"In outside chawls I have several times verified the overcrowding of rooms. In one room on the second floor of a chawl measuring some 15 ft. × 12 ft. I found six families living. Six separate ovens on the floor proved this statement. On enquiry I ascertained the actual number of adults and children living in this room was 30. Bamboos hung from the ceiling, over which at night, clothes and sacking were hung, helped to partition each family allotment. Three out of six of the women who lived in this room, were shortly to be delivered. All three said they would have the deliveries in Bombay. When I questioned the District Nurse, who accompanied me, as to how she would arrange for privacy in this room, I was shown a small space of some 3 ft. × 4 ft. which was usually screened off for the purpose. The atmosphere at night of that room filled with smoke from the six ovens, and other impurities would certainly physically handicap any woman and infant, both before and after delivery. This was one of many such rooms I saw. In the rooms in the basement of a house conditions were far worse. Here daylight with difficulty penetrated, sunlight never, and sunlight we know is inimical to the life of most pathogenic organisms."

The Honourable the Surgeon General will bear me out in this appalling state of affairs which I hold compulsory primary education alone will eradicate. Had we compulsory primary education to-morrow, these facts would not continue to exist and the efficiency of the worker would be far greater than hitherto. A higher standard of life would exist and with it better conditions of living and increased productivity on the part of the worker. Take the case of Scotland as a good example. Ever since the 16th century education in Scotland has been pushed forward with great keenness. It was probably the first country in the world to have compulsory primary education. The country was poor, but since the time of John Knox in the 16th century, wherever there was a church there was a school. And what was the result? Even the cultivator benefited, as did the higher classes. He saw the advantages of improved cultivation. Before the introduction of root crops, every year he had to kill cattle and sheep and cure them before winter set in as there was no food, generally speaking, to keep them over the winter. But when these root crops were discovered—the people there were much better educated than elsewhere—they took to them and they are comparatively well-off to-day. This brought great wealth to Scotland which is by the way only one-third of the population of this Presidency. The same will happen in the case of this country. The more one studies these facts, the more one realises how our future prosperity is bound up with this important question.

But now, Sir, the main object of my remarks this afternoon is to put before the House several statistical facts, which have so far not been referred to,

[Mr. G. Findlay Shirras]

The latest census figures show us a very disappointing picture. Only 13·8 per cent. of the males of all ages of this Presidency can both read and write a letter in any language, as against 12 per cent. ten years ago. Only 2·4 per cent. of the women, females of all ages, in the Presidency are literate, as against 1·4 per cent. ten years ago. This is, I think, every one will agree, a very unsatisfactory state of affairs and the increase between the two decennial censuses is not so great as it ought to be. And if you look further into it, you find in Surat city for example, which heads the list for literacy, 32 per cent. only as literate. Poona city comes next, with 26 per cent. Bombay city and Ahmedabad, which come next to Poona, have got 24 per cent. Karachi has only 20 per cent. Again, there is a great difference between literacy in the towns and the districts. For example, in Ahmedabad city the literacy of both males and females is 24 per cent.; in the district it is only 10 per cent. In Poona city the literacy is 26 per cent.; in the district it is only 6 per cent. In Sholapur town 13 per cent. as against 4 per cent. in the district. In Karachi it is 20 per cent. in the city as against 3 per cent. in the district. And if you take the main divisions of the Bombay Presidency, you will find that literacy varies considerably. You will find Gujarat higher up in the list—very much higher than most people would expect—with 22 per cent. of literate males and and 4 per cent. of females as against 20 and 3 per cent. ten years ago. There is a large gap between Gujarat and other parts of the Presidency, specially in the Deccan and in the Karnatak. In the Deccan 11 per cent. are literate males and 1 per cent. females as against 9 per cent. males and less than one per cent. females ten years ago. In the Konkan the percentage of literacy among males is 11 as against 10 at the 1911 census; for females the increase is from ·9 in 1911 to 1·7 in 1921. In the Karnatak 14 per cent. of males and 1 per cent. of females are literate asagainst 11 per cent. males and one half per cent. females ten years ago. In Sind only 8 per cent. of the males are literate and the percentage is the same as ten years ago. Only 2 per cent. of the females in the whole of Sind are literate as against less than one per cent. ten years ago. That fact clearly shows that the bill cannot be delayed a day longer.

If you take the selected castes of the Presidency, you find the greatest difficulty. Take the Marathas. The Maratha community has only got 6 per cent. literate, as against the Vani (Khadayata) with 75 per cent. The Kaysath Prabhu has 73 per cent.; the Bhatia 72 per cent.; the Audicch Brahmin 70 per cent.; the Deshasth Brahmin 66 per cent.; the Chitpavan Brahmin 63 per cent.; the Ghanchi 60 per cent.; the Gaud Saraswat Brahmin 57 per cent.; the Shia Bohra 57 per cent.; the Sunni Bohra 44 per cent.; the Lohana (Sind) 34 per cent. These are the most literate castes according to the last census. In other castes literacy is terribly low. Among the Marathas it is as I have said only 6 per cent. and among the Mahars it is very much lower still—only 2 per cent. Surely no one is satisfied with this state of affairs. With illiteracy like this the treasure house of light is barred to many. The precious beauties of the Gita or the Koran must be to many unknown.

Mr. IBRAHIM S. HAJI: Is the honourable member quoting from the census report?

Mr. G. FINDLAY SHIRRAS: Yes, I am.

The Honourable the PRESIDENT: What is the question asked by the honourable member from Bombay?

Mr. IBRAHIM S. HAJI: My question was, is the honourable member quoting from the census report?

Mr. G. FINDLAY SHIRRAS: Yes; I quote, Sir, the figures of the census report, which is the only official source.

The conclusion, then, is, Sir, that the principles enunciated in the bill are sound. Some of us seem as it were to try to get water from a well and are not getting water at all. Others are receiving much too little to quench their thirst. What we do require more than anything else is the pure sweet water of compulsory elementary education, and I feel considerable pride in that this Council is adding another pebble to the cairn of India's future prosperity. After all, Mr. President, few realise the depth of the average British official's feelings towards the land in which he has made his home, and how deeply he feels as a loyal citizen of India for the welfare of his adopted country. Most of us spend the greater part, if not the whole, of our working life in this country. Our life's work is here, our struggles, our greatest joys and for some, alas! our deepest sorrows. We feel as civil servants that the whole future of India is bound up with more and better education, and to effect this we must have a bill somewhat on the lines of the one which is placed before us by the Honourable Minister. I think it is unnecessary to say that we should put aside all our selfish interests and passions and traditional prejudices and value the importance of equanimity. You all know the beautiful *abhang* of Tukaram which begins:

"*Shāntīparate nāhī sukha.*"

Calm is life's crown; all other joy beside is only pain.
When passions rage and we are wrung with woe and sore distress,
Comes calm, and then—yea, Tukā knows it—lo! The fever vanishes.

Well, Sir, we have to look at the whole question with equanimity. All things considered, I think the House should unanimously vote for the first reading of this bill.

Mr. M. W. PRADHAN (Thana District): Sir, I rise to support the first reading of this bill and I do so because the bill, just like the Local Boards Bill, really goes to show that the reforms are not hollow but full of progressive realities. I think, Sir, I ought not to forget to congratulate the learned Education Committee, which was wholly manned by the honourable members of this House and whose elaborate report is so prolific in the suggestions and recommendations all round that the Honourable Minister, well-known for his quick grasp, took no time to conceive and deliver this bill to the House. (Laughter.) It has been urged, Sir, that the bill is not a panacea that will succeed in curing the disease of ignorance in every district and area alike, and that, too, when it is desired to have uniformity and equity in the incidence of taxation. But it will be conceded, Sir, that no matter what changes are made in the select committee when this bill attains that stage—and I have no doubt that it will—a nation-building legislation like this present bill will have to be given sufficient time to make it harmonise with the divers environments that are already existing throughout this Presidency. I entirely support the constitution of the school boards holding as I do the whole bill as an experiment. I feel, Sir, that the bill is long overdue in principle but I do hope that the Honourable Minister will not rest content until he is able to provide for a higher type of technical and scientific instruction with a view to turning out experts in this country. For, Sir, it is not the quantity of instruction merely but also the quality of instruction on which the progress, evolution and salvation of a country depends.

[Mr. M. W. Pradhan]

Referring to the honourable member, the Director of Labour Bureau who cited an instance when he said that this bill is intended to provide for the three R's—I fail to understand the meaning of it—he said that these three R's which this bill is intended to provide for, will remove the shocking instance of thirty souls living in one room 15 × 12. I fail to see, Sir, how the instruction which this bill is intended to provide for will remove that evil. Therefore I say that it is not merely the quantity of instruction but also the quality of a far higher order that will elevate any country. With these remarks, I congratulate both the Honourable Minister and Government on bringing forward this bill at this stage and I support the first reading of this bill.

Major C. FERNANDES ( Bombay City, South ) : Mr. President, I do not feel the slightest hesitation in supporting the first reading of this bill. The bill follows closely the lines suggested by an important and representative committee consisting of members of this house and appointed by the Council, and if I have judged aright, there can hardly be any objection whatever to the provisions of the bill. The bill to my mind constitutes a long step and an important step forward in the matter of compulsory education, the achievement of which has for long and for good reason been the dream of our politicians. The constitution of a school board for every local authority is a very welcome feature of the bill and I think this will be very much appreciated by the generality of the people. I note with pleasure, and so will I hope many in this House as well as outside it, that it is the intention of this bill to invest the school board with greater authority in the matter of compulsory education than is at present exercised by the local boards and the municipalities. I fervently hope that the people will come foward with an alacrity to avail themselves of the advantages of this measure. It will indeed be a great misfortune if for lack of endeavour on their part the benefits of this bill should not be wholly achieved. Much will of course depend upon the ability and the readiness with which Government would be prepared to supply the necessary funds. It is unfortunate that the bill has been introduced at a time when the finances of the country are not in a flourishing condition but there is no cause for despair. I do hope that the necessary funds will be found.

The bill provides that in the area where compulsory education is adopted, education shall be free and the management be left entirely to the school boards. I do not know if this provision will do away with all the obstacles. I have heard it said often that the cost of books is becoming increasingly prohibitive and beyond the means of the poor parents. I believe the matter has been brought to the notice of Government and I hope every effort will be made to diminish the cost of books and other requirements of children. It is only then that we could hope that the way of compulsory education will be made easy.

I wish to take this opportunity of referring to the case of primary school teachers. The wages recommended in their case by the committee appointed by Government in 1920 were no more than a living wage.....

The Honourable the PRESIDENT : Is that relevant to this bill ?

Major C. FERNANDES : I shall show, Sir, how that is connected with the bill before the House.

The Honourable the PRESIDENT : It all depends on how you connect it with this bill.

Major C. FERNANDES : I merely wish to say that I feel that the special committee has not dealt with this question with the sympathy it deserves,

[Major C. Fernandes]

and I think we ought to take this opportunity of, at least, giving them what that committee suggested and which apparently would meet with the wishes of the people concerned, namely, the primary school teachers. Their case seems to me rather hard and in the present economic conditions, I think we ought to allow them at least a living wage. It is very important that the people should be kept contented with their lot so that we can get better work from them and also that we may attract a suitable class of men to the service.

As I have said already, the bill to my mind is not a contentious one but one that should readily command the acceptance of this House; but there is one point, however, I would like to refer to, namely, cause 19 which empowers a police or revenue patel to convict and fine a person who infringes the provisions of this bill. There is of course an appeal to a magistrate provided to prevent abuse of power given to the patel; but I think it would have been perhaps better if we had given this power to a committee or a village panchayat as in that case there would be fewer chances of abuse and hence fewer occasions for appeal. But this is a matter which ought to be taken up by a member who could reflect the sentiments of villagers better than myself. I do not wish to pursue the matter further. With these words, I gladly give my support to the first reading of the bill.

Mr. A. N. SURVE (Bombay City, North): Mr. President, when first I received this bill, my impression was one of great disappointment. I thought that when we were asking for bread, a stone was being given to us. I thought that this bill was a mere repetition of the bill of 1918. That bill, we are all aware, did not achieve what was expected of it. The other reason of my disappointments was that the half and two-thirds grants which this bill gives to the local bodies being less than the present grants would act as a check upon the spread of education. I was also under the impression that urban areas were being preferred to the rural areas, where education was very badly wanted. Again, the Government, we all know, is handicapped at present on account of financial stringency, and it led me to believe that the efforts of Government were not likely to be very zealous in the spread of education. But, when I heard the honourable mover of the bill, much of my misunderstanding was removed. First he explained to us that the proportion was to apply to the new or additional cost only, and it was his intention to give simultaneous attention to the urban and rural areas. Next, he was in favour of adopting the ten years' programme laid down by the majority report, and he assured us that Government was earnest about the spread of education. Sir, having received these explanations, my attitude towards this bill was changed. At first, I was disappointed, but now I think that there is no cause to be apprehensive, and it is our duty to help the Honourable Minister in carrying out his intentions. I shall now make a few suggestions.

With regard to the school board, we are told that the school board is to consist of from ten to fifteen members. Out of these, three are to be Government nominees. We do not know whether these nominees are to be officials or non-officials. If they are to be officials, I emphatically protest against their being placed on the board. To place official members on the school board would retard the spread of education. Official members always look at things from the point of administrative convenience, they introduce much red tape, and their presence generally acts as a sort of check to the enthusiasm of other members. For this reason, I think that, at least in the initial stages, the other

[Mr. A. N. Surve]

members of the school board must have a little more freedom, and the Government nominees should, as far as possible, be non-officials. Then the school board is to contain women. It is a very desirable thing to have qualified ladies on the board. But I am very doubtful if we will get enough qualified ladies in all districts. Therefore, I think women should not form an essential component of the board. If they can be found, by all means we should accept their advice and co-operation, but if they are not available, then we must not delay our operations till we find them in sufficient numbers. Then, about the minorities, the school board is to have a representative of the minorities. May I ask why the Maratha and allied castes also should not be represented? You may say, they are in the majority, but I am afraid that the representatives of these castes may not find a place on the school board. Therefore, I think it is better to have representatives both of the backward as well as of the depressed classes on these boards. Then, I should like that the members of the school board should be elected from among the members of the district board. If the majority of the members of the school board is to consist of outsiders, then there will be no link between the school board and the district board, and at the time of the budget there would be friction.

Next, I come to the question of grants. The present grant is 88 per cent. and the grant on the additional cost will be 66⅔ per cent. Under this arrangement, the local boards are likely to suffer great disadvantage. First of all, under this bill, they are going to lose the income which they at present derive from the fees, and in addition to this loss they are saddled with the additional burden of introducing compulsory education. Additional substantial sources of revenue are not given to them and I am afraid that it will be an impossibility for the local boards to introduce compulsion. One of the clauses of the Local Boards Act lays down that that body is to discharge its obligatory duties to the extent of the funds at its disposal. If the funds are not enough, how are they to discharge this duty which this bill casts upon them?

*After recess.*

The Honourable the PRESIDENT: Order, order.

Mr. A. N. SURVE: I was saying, Sir, that the local bodies will not be in a position to provide for the educational wants of the people under the conditions mentioned by me before we adjourned. In a village there were about 100 students and these students had to wade through water for about a distance of 2½ miles during the rains to attend a school. The villagers even consented to build a school at a cost of Rs. 2,000, and with the greatest trouble a teacher was given to them. The moment the number of students reached 90 the teacher said that he was not going to register names of any more students, because he was not able to manage the already existing number. As a matter of fact, these thirty or forty students were shut out. This happened in a village in the district of Ratnagiri. So this distinctly illustrates how, because the local body is not in a position to provide the necessary facilities for education, the students are obliged to waste their precious time of youth.

Then, the next thing I wish to refer to is about the default of local bodies. We are told that if a default is made by a local body the Government will appoint an officer, and he will carry out the programme. Sir, I beg to say that the Government officer will carry it out, if there is money in the hands of the local bodies. The clause states that if any local body makes default, the officer appointed by Government will carry out the scheme and that the expenses should be paid by the local authorities to Government. My whole idea is that,

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instead of giving power to local bodies, the Government should reserve in their hands the power to levy taxation and give liberal grants to local bodies. The first local board bill was discussed in 1882 or somewhere thereabout and the idea underlying that bill was that the local bodies were brought into existence for decentralisation of power, the Government was to accept the responsibility of giving them funds, and the local bodies were expected to carry out the work in their respective areas. That idea must be emdodied in this bill also. We cannot expect local bodies to levy taxes and carry out the programme of education.

The amount of grant which the Government is to give is to remain fixed irrespective of the increase or decrease in the number of students.

The Honourable Dr. R. P. PARANJPYE: Not when the number of students increases.

Mr. A. N. SURVE: The fine which the committee has recommended is Rs. 5 but the bill provides for only Rs. 2.

The Honourable the PRESIDENT: May I remind the honourable member that he is going into details not affecting the principle of the bill? Whether it should be fixed at eight annas or one rupee may be left to the select committee to consider and can be discussed here at the second reading of the bill if it passes the first reading.

Mr. A. N. SURVE: I have come very near to the end of what I have got to say. The Honourable Minister has given us several assurances, and I hope the select committee will see that they are embodied in the bill. Lastly, I congratulate the Honourable Minister for the several good points in the bill. The two points which appeal to me as most important are that where primary education is to be made compulsory it is also made free to children of both sexes, and secondly it gives liberty to local bodies to fix the subjects and the curricula, which is a good thing. To conclude, I support the first reading of the bill, and I wish it to be understood that I give my support to this bill on the understanding that the assurances given by the Honourable Minister will be carried out in full.

Rao Bahadur R. R. KALE (Satara District): Sir, I join the chorus of congratulations that have been offered to the Honourable Minister for the courageous and bold step he has taken in introducing a piece of legislation of national importance from the point of view of the masses. Though the Honourable member, the Director of Labour, said that Englishmen have stood for the masses, I think it is this reformed Council that is responsible for the measure. While congratulating the Honourable Minister, I am afraid I have to say that the provisions of the bill are somewhat meagre, and indefinite, and too meagre to give the public an idea as to the period within which compulsion is to be made universal; and secondly, how and in what manner better arrangements are made for the progress of primary education. I understand the object of the bill is two-fold: to bring about universal compulsion—within what time will be decided later—so far as elementary education is concerned, that is, the infant standard and standards I to IV. The second object is to make improved arrangements for the supply of primary education—that is what is stated in the statement of objects and reasons. I submit the legislation proposed is not sufficient compared to the magnitude of the task. We have to remember, Sir, that provisions relating to primary education are now found not in one single enactment by itself but scattered over various laws and resolutions passed by Government. The committee

[Rao Bahadur R. R. Kale]

specially appointed for this purpose has recommended at page 42 of its report:—

"We propose that a separate and comprehensive Primary Education Act should be framed, dealing with the whole question of the management of primary education and containing in addition the provisions necessary for the introduction of compulsory education."

Having regard to these facts, it was expected that in this bill Government would make all points clear. I therefore propose to examine all the provisions and point out whether and how far those provisions are sufficient and in what particulars they are deficient. I propose to divide my remarks under four heads: first of all, the constitution and powers and duties of the school board; secondly the procedure which is laid down to make elementary education compulsory; thirdly the financial aspect, *i.e.*, the division of the expenditure between the provincial Government and the local authorities, and lastly, provision of teachers, inspectors, etc.

Now, dealing with the first point, namely, the constitution of the school board, I may at once say that I entirely approve of the constitution of a separate school board. And in expressing my approval I wish to say that from my experience of the school committees, I think it is necessary to have experienced men of education in them. Unless a separate board is constituted, it seems to me that the members generally elected to these boards are likely to lack in that quality and ability which is necessary to carry on a department of education as it were. It will be remembered that very wide powers are to be entrusted to these school boards. Even when the old Local Bodies Bill was being discussed it was pointed out by men like Sir Pherozshah Mehta that it was necessary to have educated men represented on the municipalities in order to carry on the administration efficiently. Now, Sir, even in those days it was recognised that some kind of qualification based upon education was necessary. Now, we are going to have only one uniform qualification for election to municipalities. We must face facts boldly: it is no use ignoring them. Knowing the illiteracy which prevails among the masses and remembering that the population is great, I think there is a necessity for the present at any rate of having a separate board competent to deal with the whole question of primary education. Now, I have a word to say about the constitution of these boards. The board is to consist of ten to fifteen members, of which not more than three shall be appointed by Government, and the rest shall be elected by the local authority. I think that the number is somewhat limited. It has been apparent from the previous speeches in this House that smaller municipalities who will be deprived of any authority to control education in their areas will have to be given some representation. In fact the section says that the board shall include representatives of minorities, and if the local authority is a district local board, representatives of municipalities in the district which are not authorised by Government to manage their own schools. Take for example, my own district. It contains eleven talukas and seven or eight municipalities. If the school board is to be a separate entity, it stands to reason that some of the municipalities, if not all, should have a representative on the school board. With the limitation put on the number of members of the school board—it is only 12—the difficulty of representing all municipalities is obvious. Then there are the taluka boards to be represented. There is, in my humble opinion, not enough scope for the representation of all these interests, and I would ask the Honourable Minister to widen it so as to give a chance for a somewhat fuller representation. In my opinion the smaller municipalities should have at least each one representative on the school board to represent their interests.

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As regards the point raised that no official should be allowed to be put in on these boards, I beg to point out that nomination is not so very objectionable. The nomination is to be made by the elected members of the district local boards, and therefore it will be extremely improbable that there will be any unnecessary official element on the board. My only suggestion is that the board should consist of a larger number of members.

Having dealt with the constitution, I shall now turn to the powers and duties of these school boards. In regard to that there is only one clause, clause 4, which says:

"The powers and duties of the school board shall be as prescribed. It shall perform the duties of the local authority for which it is constituted in respect of primary education and if the local authority is a district local board, it shall also perform the like duties of the municipalities in the district which are not authorised by the Government to manage their own schools. The school board shall also enforce the provisions of this Act."

Excepting this one clause, there is absolutely nothing to indicate what the powers and the duties are, for which rules have to be provided. There is another clause later on, clause 15, which says:

"The subjects, curricula, books and standards of teaching of approved schools shall be as prescribed."

The Honourable Dr. R. P. PARANJPYE: Read the next part of that clause.

Rao Bahadur R. R. KALE: Yes, what is it? It says:

"but may be altered by the school board with the sanction of the Government to suit local requirements."

So the school board has to perform the duties and powers in respect to education. But that is too vague, and I submit, Sir, if you refer to clause 15, it will be seen that there you have a small indication of the subjects which will be the subject of rules. The clause reads:

"The subjects, curricula, books and standards of teaching of approved schools shall be as prescribed."

There even, you will see that it is only "The subjects, curricula, books and standards of teaching of *approved schools*." Now, "approved school" is defined as follows:—

"Approved school" means a place in which instruction in elementary education is given and which is for the time being approved by the school board."

So that, it does not include a full primary school. The difficulty is that you have, therefore, not even the power, vague as it is, of prescribing the curricula, books, and so on, in respect to primary education as a whole. I mean this is a defect which appears to me rather serious. My point is that you have an opportunity here that has to be taken—in fact that has been seized already, in a way—of laying down certain indications of the duties and powers of the school board which should be laid down. For instance, if you refer to the English Education Act, you will see, Sir, that section 2 says:

"It shall be the duty of a local educational authority so to exercise these powers as to make or otherwise secure adequate and suitable provision by means of central schools—

(1) for including in the curriculum of public elementary schools, at appropriate stages practical instruction suitable to the ages, abilities and requirements of the children;

(2) for organising in public elementary schools courses of advanced instruction for the older or more intelligent children;

(3) to make or otherwise secure" and so on.

The point is, here are the purposes of the rules laid down in the Act itself, and my humble submission to this Council is that some such similar provision should be embodied in the Act itself indicating the purposes for which the rules are to be made. No doubt, the matter is to be left to rules, but generally

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speaking, whenever the rule-making power is given to a certain body—the Government in this instance—it must indicate the purposes for which the rules are to be made. If that is so, then the public have something before them which serves as a sort of guide to them. And if you will turn to the recommendation of the Education Committee, you will see, Sir, exactly what is stated there at page 43 is as follows :—

" We recommend that the curriculum should be modified and simplified where necessary so as to bring it in closer relation with the pupils' environment."

It will be seen, therefore, if a special Act is now being enacted and if, as has been made clear in the preamble itself, provision is to be made for this compulsory elementary education and better management and control of primary education—by which I understand upper primary education—I think, Sir, that this is going to be an Act which is consistent with the system of national education. I call it national in the sense that it affects the well-being of the whole nation. This is of national importance and, therefore, I call it a national system of education. In the English Education Act, the preamble reads :

" With a view to the establishment of a national system of public education available for all persons ".

I submit, Sir, we have an enactment here somewhat similar to this. There will be time when it will be developed gradually and it will be time then to introduce modifications from time to time as circumstances permit. But there must be a skeleton or frame-work in the bill itself to make us alive to the necessity of laying down certain purposes in order to serve as a guide on which the whole scheme of national education is to be built, and having regard to the cry raised with regard to the defects of the present system of education, which have also been recognised in the Montford Report and which are—" The system has failed to train Indian boys for practical work, to train their character owing to the absence of moral "—and I may add religious—" education, to train the rural Indian to become a more practical farmer instead of an indifferent clerk." These are the defects which have been pointed out. So far, Government have tried to get a number of clerks. The time has now come when the number of clerks obtained is too large to serve their purpose, and now that rural areas are to be taken in hand for education, we ought not to follow the same method even in these elementary standards which has served us in the past, but we must make a departure and we must lay down the standards, curricula, etc., suited to the agricultural needs of the country. Most of the people affected by this Act certainly will be the agricultural population. Therefore, I think I have made myself clear as to what I desire in this connection.

Then, there is clause 25 about the rules. That clause, Sir, also to my mind is not very clear, nor sufficiently wide. It says :

" The Government may by notification in the *Bombay Government Gazette* make rules for the purposes of this Act."

As was pointed out by you, Sir, it does not say " consistent with the provisions of the Act." That is a matter which requires to be set right. But the purposes mentioned here are confined to " determining the powers and duties of local authorities, school boards and school board administrative officers and their relations with the Government Educational Department". That is exactly what is stated in the earlier part of the clause, but the subsequent part of the clause says : " and the conditions regarding the pay, qualifications and terms of employment of the teaching, inspecting and supervising staff". No other purposes are indicated. Only the pay, qualifications and terms of employment

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of the teachers, inspectors and supervising staff are the things which have been specifically stated. I know it may be argued the clause is wide and wide power is given to you to make any kind of rules under the Act. That is so; but I think it is necessary, when a rule-making power is given and especially as when those rules are framed they come at once into operation without this Council having any opportunity to discuss them, that we should make everything clear as to the purposes for which the rules are to be made. This power of rule-making is a very high-handed instrument given to the executive. It is a blank cheque given to the executive to do what they like. There is no further real check over them. There ought to be a standing committee in a matter of this kind. However, my submission is that our purpose will be served if some indication is given in the bill itself as to the purposes for which the rules are to be made, like a suitable arrangement for attending to the physical condition of children, discipline and punishment for non-attendance of children, and, last but not least, the moral condition also, which is a very important factor in my humble opinion. All sides ought to be placed in the forefront in the programme that is going to be laid down. Hitherto there has been a complete neglect, I know, because a foreign Government refuses to interfere with religion and they have kept themselves aloof. But I submit that the principles which are common to all religions, those eternal verities of religion and morality, should at least be made to form part of the curriculum. I am aware of the press note issued lately by Government, but I submit that some provision ought to be made by which we should see that side by side with state education, there ought to be religious and moral education at least wherever there may be a desire for such education.

The Honourable the PRESIDENT: The question whether religious and moral education should form part of the curriculum is an administrative matter not embodied in this bill and not relevant to its principle, which is all that can be discussed now.

Rao Bahadur R. R. KALE: Sir, the English Education Act, says that it shall be the duty of the local educational authority to make provision for including in the curriculum all sorts of matters. It is section 2 which will show that in the enactment we can point out the various matters for which provision is to be made in the system of education.

The Honourable the PRESIDENT: That is all right in general terms, certainly; but all these questions whether religious and moral education should be introduced and whether the teaching should be in vernacular and so on are administrative matters not within the principle of this bill. I quite admit that in general terms you may refer to them to elucidate the principle of the bill.

Rao Bahadur R. R. KALE: In general terms it may be said, and some provision might be made; and looking at the history of English national education, one finds that this question of religious education has occupied the attention of the educational authorities. However, I will not dilate more on this point. I only submit that the purposes should be enumerated and that they should form the guide for those who make rules.

After having finished with the first part, namely, the constitution of the school board as well as its duties, I will now proceed with the second point, and that is the point as to how far compulsion can be introduced so as to make elementary education universal in a given time. Complaints have been made by member after member that although the report of the Compulsory Education Committee has laid down certain time, why that limit should not be

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stated in the provisions of this bill. Personally I do not know why such a provision cannot be made in any sections which deal with these points, namely, sections 8, 9, 10 and 24. These are the sections which deal with the procedure to be followed for the purpose of achieving our aim, namely, bringing about compulsory education. Now, as one honourable member has said, this bill is an enlarged edition of the Patel Act, and unless and until you lay down that it is the obligatory duty of the local boards or of Government, I do not think that the end is likely to be achieved. There are two ways of doing this: one to say so in the clause itself, clause 8, that it shall be the duty of the local bodies and not merely "a local authority may by resolution, etc." and secondly, when we go to clause 10 it says Government may sanction such a scheme. Then clause 11 says "If the scheme is sanctioned, etc." Clause 8 (2) also says "A local authority if called upon by Government so to do, etc." So that even there there is that "if". If a local authority declares by a resolution, then Government should make it obligatory. So everywhere you find that conditional nature, and you stop with a power which is discretionary and there is nothing obligatory, and therefore there is no mandate in the Act itself as it is. In the absence of that the result may be—I do not say it will be, but that it may be—that judging from the results that we have so far seen from the working of the Compulsory Education Act in municipalities every one of us finds that in one thing or the other the same results may ensue. I therefore submit that there should be a time limit put upon the local authorities to introduce compulsory education from time to time so as to make it universal throughout their jurisdiction. "There shall at the end of two years", make it that way, or if not, say "if a local authority fails to do so, then Government must be made to have that obligatory duty cast upon them". It will not do to make it only discretionary to Government also. There should be cast an obligation to insist upon the local authority to bring about that stage. So I submit that these are the two remarks which I wish to make so far as clause 11 and the other clauses which relate to this matter are concerned.

Then I come to the third point, and that is the point of finance. With regard to that honourable members have already expressed their views. I have calculated, Sir, some statistics so far as my district is concerned. The assurance given by the Honourable Minister came upon some of us as a great relief, namely that the grants to local board schools hitherto given shall be maintained, because it is now 85 per cent. whereas you reduce it to two-thirds hereafter. Otherwise we would have been in a worse position by this Act. Therefore, as I said, it was a great relief to some of us when the Honourable Minister made that announcement that the previous percentage of the grant, namely 85 to 90 per cent—it varies from 85 to 90 per cent—the percentage which is now being given to the board, will be maintained and that it is only with regard to the new areas that will come under the operation of the Compulsory Education Act further on, that the grant will be limited to two-thirds only. Taking that assurance, I think it is necessary to embody it in the enactment itself. After all, this is the Council, this is the Ministry which is now in power and which has now given certain assurances, but unless we have them embodied in the statute itself, I submit that it is not safe merely to leave things in that manner because the consequence will be that it will not be very wise to rely upon the mere assurances. Even now in the local boards in my district our resources are limited and it is not possible to carry on without the grant. For the last two or three years we have been receiving demands from 100 villages for new schools and a

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demand for 250 teachers for being employed in the existing schools, but our resources are limited and we have called upon Government to meet our needs. Hundreds of applications have been pouring upon the district local boards—I hope my honourable friend, the Director of Public Instruction, will bear me out on the point—and Government is not going to give us anything more. And for that reason if on the voluntary basis people are prepared to go in for more schools, still their wants will have to be set at rest for which funds will have to be found but to supply which Government have no money to spare. If the same condition of things continues, my fears are that it is no use saying that Government's coffers are empty and that therefore Government cannot help. It is my firm conviction that the duty of providing compulsory and free education must be looked upon by Government in the same light in which they look upon police, law and order, and the other departments of administration, in the light of an unavoidable and solemn duty imposed upon Government to carry out which they should try to find funds either by taxation or otherwise. What I would suggest is, as I have stated, that clause 8 should be amended in such a way as to say :—

"A local authority may by resolution declare its intention to bring about compulsory education, but in doing so, it should say that it should submit a scheme to provide for free and compulsory education within the areas subject to its jurisdiction in such a manner that the whole of the said area within its jurisdiction shall be brought under compulsion within, say, seven years, or as the report recommends, within ten years within the whole of its area."

And the next clause which reads something like this :—

"A local authority if called upon by the Government so to do...."

should have the "if" omitted and I would suggest something like the following:

"A local authority shall be called upon by Government...."

These are two ways in which I would suggest that the bill should aim at achieving the desired object.

If as my honourable friend the Minister of Education has suggested that we must have education, compulsory education for girls too, then even with his present offer it is hardly possible to meet the existing wants of education so far as boys are concerned. I have made some calculations which go to show that even if the whole rate of one extra anna local cess, which is the maximum given to local boards, is devoted to education—of course there are many small rates such as water rate and other rates which are required for the general needs such as roads, etc.—the rise of one anna in the local cess is allowed, making the total cess two annas; if the further one anna is devoted to education, I know so far as my district of Satara is concerned, there comes a deficit of Rs. 8,000—a small deficit no doubt, but I have not taken into account the non-recurring expenditure. I have taken into account only the recurring expenditure. At present we have about 38,000 boys in schools. The number will be 40,000 more and on that I have made the calculations. Therefore I say if girls also are to be educated, then the figures rise enormously. The expenditure for compulsory education will be Rs. 6,48,000 because at present the proportion of school-going girls is very small, because if there are 40,000 boys now, there are only 5,000 girls in the whole of my district. The expenditure will be Rs. 6,48,000 for girls and Rs. 4,08,000 for boys or a total of about 10½ lakhs. The present four pies in the rupee *plus* the twelve pies permissible will give our local board Rs. 1,25,000. The rest of the money therefore will have to be provided for by Government. Therefore, you will see what the extact position will be. I would therefore most strongly urge both on the

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Honourable Minister and the honourable members of this House that unless and until the provincial Government undertakes to finance the educational policy, it will be impossible for local boards to make any progress at all in the direction of making primary education compulsory and universal. That is the conclusion to which one is driven and therefore if you are going in for compulsory education, you will have to make the necessary provision out of provincial revenues in the same way as you are making provision for police, law and order and other branches of the administration. You must realise this question from the standpoint I have placed before you and insist upon so much money being continued for the purpose—I mean so much money must be reserved out of the general revenues for compulsory primary education.

The Honourable Minister has told us that Government are going to continue the old proportion. So far as the local boards are concerned, the same proportion may continue, but so far as municipalities are concerned, we shall be in a worse position. I think honourable members understand what I mean. At present municipalities are getting only one-half. Under the bill they will get two-thirds if they are merged in the district board. Their contribution is at present less. In the case of local boards it is more than two-thirds, it is 9-10ths, but here it is 50 per cent. whereas the grant now will be 66 per cent., so that if you are going to continue the old proportion, so far as the local boards are concerned, you are giving them immense relief, but so far as the smaller municipalities are concerned, I think their position requires to be carefully considered.....

Mr. O. ROTHFELD: May I point out.....

The Honourable the PRESIDENT: Unless the honourable member for Satara who is in possession of the House gives way, the honourable member (the Registrar of Co-operative Societies) should not interrupt.

Rao Bahadur R. R. KALE: I am not going to give way. Then, the further difficulty which I want to place before the House is this, that municipalities which have already introduced compulsion in primary education will not be much affected by this bill. Only those municipalities which have not taken advantage of the existing Act will be affected by the passing of this bill. We in Satara have introduced compulsory education, so our schools will not be affected; it is only the schools which are to come into existence under the scheme which will benefit by getting the two-thirds grant. It must be made quite clear that the provisions suggested by me must be made in the Act itself; it is no use relying upon any reference in the speech of the Honourable Minister—the speech of the Minister can be and has been criticised and honourable members are aware that we have been often told that speeches of Ministers are no part of the statute and therefore no speech of any Minister can help you. Therefore, particular provision must be made in the Act itself, and the matter should not be left to mere individual statements.

The Honourable the PRESIDENT: How would you provide for it in the bill?

Rao Bahadur R. R. KALE: I am coming to that. Clause 11 of the bill lays down the grants which Government will give where compulsion is introduced. In order to carry out my intentions a proviso may be added as follows:—

"Provided that the present expenditure upon local board schools as found on the day the Act comes into force shall be maintained."

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By making that provision in the Act, the successor of the present Minister or anybody else will have no power to go back upon it in the future. Therefore, as I say, a proviso should also be added saying that it will not apply to municipalities, provided that the grants to municipalities will be wholly revised so as to bring them to two-thirds, if the smaller municipalities are merged in the local boards, as the Honourable Minister proposes to do. There are smaller municipalities, and some of them have introduced compulsion in the face of great opposition and at considerable sacrifice. They cannot be expected to continue to do so for ever. We have, for instance, all along been expecting that if primary education were introduced compulsorily, the grant from Government would be increased to two-thirds. I submit, therefore, that there should be another proviso added that municipalities which have been merged in the district local boards should be given two-thirds grant. That is a matter for the Honourable Minister and the representatives of the bigger municipalities to consider, and the principle that the grants to the municipalities should be two-thirds, whether past or future, should be incorporated in the bill so far as regards the provisions relating to grants are concerned.

There is also the question of fees to be considered. Primary education is to be made free only in the elementary stages, that is up to standard IV. From the fifth standard onwards to the seventh, fees will of course have to be levied. In that case, there is also the contingency that the number of boys in the higher standards of the primary course will increase, and that must also be calculated. At present Rs. 9 is the expenditure for a boy attending the first four primary standards and Rs. 12 is the expenditure for the higher standards, because the teachers are more qualified and better trained. In order to meet the expenditure, fees will have to be levied in the higher standards. Of course as the provision in the bill stands at present, by implication there would seem to be no objection to collecting the fees or raising the fees, to meet the additional cost that will be entailed by the expansion of the higher primary education. But I think there should be specific provision for that in the bill, and that may also be a point for consideration.

Now, I turn to the last question, and that is the provision of teachers, inspection, and so on. Here also, complaints have been made by honourable members that it is entirely left to rules made by Government. This is rather a very halting clause. When, under the existing Municipal Act, a municipality has the power of making rules—no doubt they require the sanction of Government—I should think that they should now not be deprived of that power. It is rather a revolutionary change. I say that this should be specifically mentioned in the bill, especially as the Honourable Minister in his speech made it clear that the local bodies may fix the salaries of their teachers, and so on. But where is it in the bill ? According to the present provisions of the Act, the municipalities have nothing to do with it. Government is to dictate and we have simply to carry that out. I submit that that will not do. We must have the power to make rules ; the local authority must be empowered to make rules ; otherwise the local authorities will be merely carrying out the mandates of Government. Instead of granting them greater freedom, you deprive them of what little scope there is for their freedom. Their powers must be laid down in such a manner that they must have some freedom. Unless there is that, no local authority can, really speaking, do anything. We have no control over the teachers. What happens now is that the teachers say " It is the Govern-

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ment to whom we look to for payment and promotion. They fix our salary." If the local body wants to take any action, they say "We do not care." If the present state of things is allowed to be continued, they will always look to Government as before and not to the local authority. The Honourable Minister said the local boards had not that power. Therefore, I am for an independent body. We are not asking the local board to be invested with these powers. But an independent body must be constituted which will consist of experienced men, officers, experts and other persons, and at least in this matter they should have greater power. Now that under the Local Boards Act there is going to be a board which is common to both municipalities and local bodies, there is no objection whatever to empowering them to make rules and submitting them to Government for sanction in the usual way. They must have some freedom in their hands. Otherwise their powers will be only nominal, and their authority will also be nominal. No doubt they have got the authority to enforce attendance and to appoint a committee for that purpose. But that is another question. I find, Sir, that the district board cannot extend its operations of work throughout the district, beyond enforcing attendance and things of that sort. Therefore some more powers must be given. As I have said, there is provision here for enforcing attendance, and the power is given to the local committee. You may also give the local committees some more powers. Beyond sanctioning the budget, they have no other power, except enforcing attendance. The district board may appoint a small committee out of the members of the taluka boards which will look not only to enforcing attendance but to other things. There must be some body in the taluka to do some other acts also, and therefore I submit that if the powers are widened, it will also satisfy the feeling of the taluka board members that they have no power whatever, excepting the sanctioning of the money, once for all. I submit therefore that these are the few points which I thought desirable and necessary to be placed before the House, and I hope the Honourable Minister will take into consideration the fact that more latitude is given to members the better it is for him in improving the bill in the select committee. Subject to these remarks, I support the first reading.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, I support the first reading of the bill. In doing so, I wish to join my voice in the congratulations to the Honourable Minister for introducing this important bill. The three principal points in the bill are: first compulsion; secondly, the school board and the machinery for carrying out the programme, and thirdly, about finance.

About compulsion, the first principle, we are all agreed that without compulsion no progress can be made in primary education in the whole of India. Mr. Gokhale introduced the first bill on primary education and it was stated by the then Government that the bill was far in advance of the times. It is my humble opinion that the bill was quite in keeping with the times, but the Government of India.....

The Honourable the PRESIDENT: All that is gone. We are now dealing with the present and not the past action of the Government.

Sardar Khan Bahadur A. M. DALAL: If that bill had been passed, we would have been by this time on the high road.....

The Honourable the PRESIDENT: There is no use crying over spilt milk. We are now boiling the milk we have in hand.

Sardar Khan Bahadur A. M. DALAL: No member of this honourable House has objected to the principle of this Bill. The only objection that has been urged was with regard to the formation of school boards as well as the contributions which the local bodies are to make as their share for undertaking this responsibility. Coming to the question of the introduction of school boards, we must all accept it, because the administration of education by the local bodies is not in a satisfactory state. This is a sort of independent educational body composed of experts as well as rural area population which is necessary to concentrate and focus attention on the spread of education. But I am at one with the honourable member from Satara (Rao Bahadur Kale) in regard to the fact that the power to make rules and regulations should not be left in the hands of Government. I, therefore, respectfully submit that the fundamental powers of the local board in relation to the school board should be defined in the body of the bill; otherwise it will lead to difficulties.

Coming now to some other important points, I wish to point out that much consideration ought to be paid to the question of age. In India, especially amongst the poor classes, children of the ages of 5 and 6 are very tender, and even boys and girls of that age of lower classes toddle about in streets in nature's nude innocence and children of even 3 and 4 are fed on their mothers' breasts. I think that 6 and 7 will be the proper age for compulsion with regard to primary education. I am much pleased to find that in section 23 provision is made to exempt particular classes from compulsion. I know as a matter of fact in certain areas like Kanara and Nasik and the Panch Mahals there are hill tribes who wander about and whose children will not listen to their parents. If you introduce compulsion in their case, it will do more harm than good. Too much rigidity in enforcing compulsion will make the measure either inoperative or oppressive. Also I request the select committee to take into consideration the peculiar circumstances of rural areas. The children of cultivators are very useful to them during harvest season. The case of labourers in municipal areas does not apply to rural areas, for labourers in municipal areas earn good wages and can afford to send their children to school, while in rural areas the children of the poor are a great help to them in their occupations. Regarding education for women, we must not be in a great hurry. Caution must be observed, and pace will have to be accelerated very cautiously and very slowly, especially as regards the education of Mahomedan girls. In this case it is not so much the spread of education, not so much compulsion as the encouragement by scholaships and by the free gifts of books and slates which will attract girls to schools. I am in favour of Mulla schools. They learn the Koran. It is much better to have Mulla schools than to have no schools at all. As regards the constitution of the school board we require more experts of the educational department and an adequate representation from the rural boards. It is the rural boards that have to pay the bill and they require to be adequately represented. Regarding the framing of the rules, I entirely agree with the honourable member for Satara that the powers of the school board and the district board should be clearly defined in the statute.

Now, coming to finance, the whole crux of the question, compulsory education will prosper or fail according as the Government and the people willingly and heartily co-operate or not, and it all depends on their capacity to raise further taxation. During the course of the discussion, it has been mentioned that two-thirds of the new expenditure in the case of local boards and one-half in the case of municipalities will be borne by Government. But I would point out that the district boards have to meet various other demands and their run-

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ning current existing charges are very high. I fail to see how even with the power of raising additional taxation they will be able to meet their share of the additional cost. It is all very well to be proud of this Education Act, but when the time comes to count the cost, most of the municipalities and the local boards will be at a considerable disadvantage. I hope Government will consider this point. The resources of Government and of the local boards and municipalities are quite different. Government have got large resources and with favourable seasons and favourable crops their revenues would be augmented very much, and even additional taxation might be imposed. But that is not the case with municipalities and district boards. I would deprecate any movement which is calculated to restrict the powers of local boards in regard to the maintaining of dispensaries and roads, and attending to other amenities of life, such as bringing relief to the poor and the sick who are undermined by ill-health and disease. If the worst came to the worst, I would spend all the money I had for these purposes rather than for accelerating the pace of compulsory primary education. If Government want to introduce this measure, as pointed out by the last honourable member who spoke, they must bear the cost according to their resources. The local boards and municipalities, as I have already pointed out, are willing to shoulder the responsibility according to their powers, but I appeal to the Government that they must share the cost according to their resources and capacities.

Having said this much, I wish to say a few words to honourable members as regards what we should do. As we are accepting the principle of compulsion, we must accept the responsibility to pay a part of the bill. In spite of our difficulties, we have already accepted the principle and the way to carry out our programme is to start a propaganda, as I said when the Local Boards Bill was being discussed, to change the mentality of our people and to change the mentality of our leaders. We are too apt to economise and always fight shy of additional taxation. We must impress on them that times have come when Government having limited resources cannot meet all the cost of the bill and that we must also contribute our share. If this spirit is engendered in our own people I am sure that we shall succeed in raising, if not the whole, at least in raising some part of the sinews of war which are required for the spread of compulsory education. If this is done, I am sure our people will respond to our appeal, and I know this from my own experience. The time has come when we must start a propaganda among the villagers. If we tell them what our wants are and tell them what our difficulties are and the difficulties of Government, I am sure our mission will be crowned with success.

Khan Bahadur D. B. COOPER (Satara District): Sir, I rise to support the first reading of the bill and to congratulate the Honourable Minister on the very wide sweep of his bill. The problem of compulsory primary education is a very difficult one; indeed more so on account of the financial stringency of the times. The famous committee appointed by Government for the purpose was sharply divided on some fundamental points, and the Council surely will appreciate the endeavour which the Honourable Minister has made in this bill to reconcile the conflicting points of view so far as practicable. The first point of difference was regarding where compulsion should start from, the majority declaring themselves from the city municipal areas, non-city municipal areas, and villages, one after the other in their order, while the dissentiates

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stood up for quite the reverse order. The policy of the bill is to make no such distinction and to favour a simultaneous attack on illiteracy from all sides, or in the alternative to cast on the local authority all the responsibility and odium of introducing a distinction, if it so desires. It is all very well for the impartial tone of the bill. But let us consider whether it will be within the scope of practical politics for a local authority to introduce universal compulsion all at once. The financial outlook before this agency remaining what it is to-day, and so long as the improvements theoretically effected therein by the new District Local Boards Act fail to materially alter it in practice, the local authorities will not be able to avoid going in only for a gradual conquest of illiteracy in point of the areas under its control. It is up to the legislature therefore to lay out some policy for the local authority to adopt and to follow. I have not the shadow of a doubt that the Honourable the Minister in charge has the interest of universal literacy at heart.

(At this stage the Honourable the President withdrew and the Deputy President occupied the Chair.)

I therefore appeal to him to see whether for the purposes of the introduction of the compulsory principle a programme beginning with villages which are quite innocent of the luxury of knowing what a school is like, and ending with the areas of city municipalities, where the voluntary principle is already making nearly satisfactory progress every year, is not more feasible than a reverse programme or a simultaneous start everywhere. There is nothing in the bogey of popular opposition anywhere, as the committee are unanimous in holding, so far as I am able to see. Why, then, push partially literate areas further up, and completely transform them first, leaving the backward areas intact meanwhile, and then come back and help the backward areas ? I beg to propose, therefore, that the question of small villages, for whose education not a pie has yet been spent either by the Government or by any local authority, should be taken in hand at first and the new district local boards should have no option but to leave compulsion alone.....

(At this stage the Honourable the President resumed the Chair.)

The Honourable the PRESIDENT : May I remind the honourable member that he is plainly reading his written speech ?

Khan Bahadur D. B. COOPER : The new local boards should have no option but to leave compulsion alone as regards the non-city or the city municipal areas handed over to their care, until they satisfactorily carry out the compulsion programme for villages.

The Honourable the PRESIDENT : The honourable member does not seem to take my hint.

Khan Bahadur D. B. COOPER : I therefore am one of those who would at once urge that the compulsion should start from the villages instead of taking its order from the municipal areas first and then coming downwards. Secondly, it must be made compulsory for the local authority to start compulsion from the villages. It is no use leaving it to their good and sweet will.

Before leaving the subject, Sir, I solicit the Council's attention to the fact that the demand for primary education is so strong and insistent in the mofussil that there is more danger in refusing than withholding compulsion where there is no provision existing at present for the education of an area. I may be permitted to cite the instance of my own district, Sir, and you will be able to see,

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Sir, that out of the 1,342 villages we have got schools in only 565 villages and 772 villages are without schools. The percentage of the pupils in these village schools is only 4·3, whereas the honourable member, the Director of the Labour Bureau, has just pointed out that in the cities the average is from 20 to 26. On these grounds, Sir, I solicit that if anybody deserves the attention of this Council for the compulsion of primary education, it is the villages first and then the city areas. Sir, in my own district, as I have just said, there are 14 villages which have got a population of more than 1,000. There are 140 villages which have got a population of upwards of 500, and these villages have no school, 89 villages have already applied for new schools and schools in 191 villages are already under-staffed. Therefore, I again urge that if compulsion is at all introduced, the principle of compulsion being accepted, it should be introduced into the villages first, as there is such a keen demand for it.

As regards the second point, the financial point, I would just like to bring to the Council's notice, Sir, that the main sources of our revenue of this Presidency are five, namely, (1) land revenue, (2) excise, (3) stamps, (4) forests and (5) registration. The total of these heads, Sir, is nearly Rs. 13 crores. The working expenditure of these five heads is Rs. 2 crores, and it leaves a balance in the hands of Government to the extent of Rs. 11 crores. Sir, you will be pleased to notice that out of the eleven crores of rupees the greater portion of the revenue is received from the agricultural class. That is the class which pays the most and receives the least benefit of the reformed Government. For that reason, Sir, I would like to point out that this eleven crores of rupees is spent mostly on police, medical, public health, industries, miscellaneous civil works, pensions and gratuities, and so on, leaving aside education, for which only Rs. 1,66,00,000 is spent, and out of that Rs. 1,66,00,000, primary education receives Rs. 1,00,00,000. Whenever a question of new taxation crops up, we generally go back and ask the agriculturist to contribute, as we want this extra revenue for the benefit of the agriculturists. But what about the revenue that the agriculturists already pay into the pockets of the Government? I therefore suggest, Sir, that instead of asking the agriculturists to contribute towards this compulsory education, we must first provide their legitimate demands out of the general revenue. We know that it is very difficult for the Government to make the two ends meet under the present circumstances. Even if that be the case, when the expenses for primary education are met out of general funds, whatever deficit then comes, the Council will be quite prepared to sanction any new tax which Government wants to impose. After withholding education to the agriculturist for years and years, as in my opinion it ought to have come not 25 years ago but 50 years ago, the point of burdening them further with a tax deserves serious consideration. It was the accepted policy of Government to give education to their subjects and that duty Government—allow me to say—has not performed during the past so many years, and, as they have now come forward with this bill for the good of the poor people, it is for them to see that these poor people's money is spent for their demands first and then whatever is wanted, Government may make their own arrangements to make up. I do not mean to say that the additional revenue should be wholly paid by Government, but, according to my calculation, Sir, the total expenditure of my district from the provincial receipts is Rs. 3,71,046 and from the local board receipts it is Rs. 77,604, that is, in the proportion of 82·6 per cent. against 17·2 per cent. We are quite prepared to pay our share of 17·2 from our local board, out of the extra cost that will be incurred to educate our agricultural class. With

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these remarks, Sir, I support the first reading of the bill and request the Honourable Minister to consider this point of finance more carefully in the select committee.

Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Sir, I rise with a mixed feeling of gratification and disappointment when I rise to have my say on this bill. I feel gratified because this bill aims at giving legislative effect to the desire and demand of the people for providing the means of education. But, when one examines the provisions of this bill, clause by clause, one is really disappointed that the bill is not to be so much welcomed as it is spoken about. The bill appears nothing but a hollow frame-work because there, it is left to the sweet will of the local authority and the sweet will of the Government whether to really introduce this compulsory education or not. Sir, looking to the financial difficulties of the local bodies and to the indifference of the leaders of the people who are now in a mood of non-co-operation with Government, I am afraid there will be no strong public opinion to bring pressure on local authorities and on Government to introduce this compulsory education. Sir, in this bill if you examine you will find that in one of the clauses it is said that the local authority "may" declare its intention to introduce this compulsory education. It further goes on to say that Government "may" sanction and entertain such a scheme or refuse to entertain such a scheme at all. So it appears clearly that it is left to the sweet will and pleasure of both the local authority and Government whether to introduce this compulsory education or not, or it is left for more prosperous times to come. Sir, later on it takes away the power from the larger municipalities who hitherto had made their school boards very satisfactory and which are conducted in a very able manner, and I do not see eye to eye with the Honourable Minister when this bill tries to snatch away from them their legal and legitimate power which they have enjoyed since last so many years. Further this bill provides for a very heavy penalty which it is very difficult for the agriculturist and the labouring classes to meet, because they ought to utilize their children to help them to earn their living. Sir, in the case of default, the local educational authorities have power to take the charge of and to hold all the money that they possess and to raise further taxation for any deficiency that might arise or occur. Sir, the best course in this case I would suggest is—and I would have been persuaded in this matter to congratulate the Honourable Minister if Government had come up with the proposal—to levy an educational cess and invest this money for elementary compulsory education and spend this amount after education from the so raised provincial fund.

Sir, this bill further provides that the school board shall include persons experienced in education. It clearly means, not less than the broad day-light, that this majority of the members will be those retired pensioners and Government servants who have had their experience in education, because in these areas you find very rarely persons whom you can really call, as the terms of this provision imply, educated persons. So under one plea or another these Government officers will be there on the board and really those tax-paying rustics will have practically no voice and no representation on the so-called local school authorities. Sir, in conclusion, I fully believe that the bill on the whole is an unsatisfactory one and not calculated to provide for the aim in view. It is very much like the proverb *ye lakdáká ládoo he, dekhne ká he, khane ká nahi he, i.e.*, "this is a sweet ball of wood, it is to be looked at but not to be eaten." It is very much like that and I wish the Honourable Minister in

[Khan Saheb A. M. Mansuri]

charge, when the bill goes to the select committee would make adequate provision for all those little or big discrepancies as the Honourable Minister might think fit in the select committee. With these few remarks, I beg to resume my seat.

Mr. F. B. P. LORY: Mr. President, I am not one of those who think that the introduction of this bill will bring the millennium or that a new heaven and a new earth will immediately spring from under-ground. But, Sir, I think, that the remarks which were made and the figures which were quoted by the honourable member who sits on my left are sufficient to show that the present system of voluntary education has not been entirely satisfactory in its results. I believe, Sir, that the condition of the people of this Presidency in all spheres of their national life can never be put in a satisfactory position unless and until they have a system of universal compulsory education. We want two things. We want more education, and we want better education (Honourable members: Hear, hear). Now, Sir, I do not agree with those honourable members who have said that the desired end can best be brought about my multiplying schools on the voluntary basis. What we suffer from is the fact that as the result of the schools we have, the standard of literacy is abnormally low. And the only possible way to raise the standard of literacy to the required height is to make education compulsory. We know, Sir, that of those who enter our primary schools a very small percentage ever become literate—something like 82 per cent. of the boys who enter primary schools fail to continue in the schools until they have passed the fourth standard, which is considered to be the test for literacy, the test of education which is likely to provide continued literacy.

Turning, Sir, to the other fundamental principle of this bill, I should like to say a few words on the question of the transfer of control to the school boards which are to be constituted by the bill. Now, Sir, there may perhaps be some honourable members who are not aware of the fact that under the present Local Boards Act the whole of the control of primary education vests in the Educational Department; under rule 7 of the Rules under that Act the power of appointment, punishment and promotion, and practically all other powers as regards teachers, as well as the disbursement of all educational funds, vest in the Educational Department. Now, Sir, it is proposed to transfer the whole of that control, subject to certain safeguards, to the school boards. Some honourable members have cavilled at the amount of control which Government propose through this bill to continue to exercise over primary education, but, as the Honourable Minister pointed out, it is necessary for Government to continue to perform their first duty, which is to ensure that satisfactory provision is made for the education of the masses. Many witnesses, whose evidence was such that it deserved full consideration at our hands, expressed considerable doubt before the Compulsory Education Committee as to the wisdom of the proposed measure of transferring the whole of the control of primary education to the school boards. I have called attention to this because I think this House ought to realise how very important is this provision of the bill. In calling attention to this principle of the bill, I should like to show this House by quoting certain figures exactly what this Government has, through the Department which I have the honour to represent, done for primary education in this Presidency. Out of a total expenditure of 149 lakhs on public instruction from the provincial revenues in the year 1920-21, the Bombay Government spent no less than 77 lakhs on primary education. The whole of the rest of India put

[Mr. F. B. P. Lory]

together only spent 134 lakhs. Bombay spent 52 per cent; the next Presidency was Madras, which spent 36 per cent. and after that the Central Provinces with 33 per cent. Honourable members will thus see that this Presidency has spent proportionately on primary education far more than any other.

Then, Sir, I might quote a few figures to show the number of children attending primary schools. The percentage of pupils in primary schools to the population in this Presidency is 4·1, *i.e.*, a higher percentage than that in any other province in India. Madras comes second with 3·6.....

The Honourable the PRESIDENT: May I ask the honourable the Director of Public Instruction how this is relevant to the first reading of the bill. It may be relevant in so far that Government, having regard to what it has done up to now, may be expected to work out this bill in right earnest and not to make it illusory as some honourable members in their speeches have foreshadowed. It may be relevant in this way. Is that the point?

Mr. F. B. P. LORY: The point I wished to make was to impress on the honourable members of this House the importance of the work which is being transferred by this bill to the school boards.

The Honourable the PRESIDENT: Then, I have no hesitation in saying that it is irrelevant. I think the House would be grateful if the honourable the Director would address himself to the relevant points of the bill. The honourable member could make it relevant for the purpose of replying to the charge which has been brought that Government neglected primary education up to now and what assurance is there that it will be more earnest hereafter? From that point of view, I can see some relevancy but that case the honourable member has given up. I hope I have not broken the honourable member's thread of argument.

Mr. F. B. P. LORY: Sir, many criticisms have been made by honourable members against the various provisions in the bill, and as the Honourable Minister has said, I have no doubt they will be considered in the select committee, and the Honourable Minister will no doubt himself deal with those points to which a definite answer is required. But I must say that I have been somewhat astonished at the criticisms which have been made by certain honourable members who think that every detail of the scheme for the introduction of compulsory education, every detail of the financial provision to be made can possibly be included in terms of a legislative enactment. I would ask honourable members whether it is within the wit of any man to provide a bill which could possibly make provision for such a complicated and detailed scheme as would be necessary.

Some honourable members have objected to the constitution of the school boards. An honourable member told us just now that he would rather see the school board composed of the poor and the uneducated than see it filled by retired educational officers. Now, Sir, I hope that it will be possible to find for these boards many gentlemen who have had practical experience of educational institutions and who possess a working knowledge of the needs of education. But, Sir, I submit that, if such members cannot be found, then it would be better that this power was not given to the school boards at all. It is necessary, it is essential, that the school boards, who are to have the power of control, should contain a sufficient number of members who have a practical knowledge of education and of educational matters.

[Mr. F. B. P. Lory]

As I have said, Sir, I am sure that any reasonable criticisms which have been made will receive consideration from the Honourable Minister, and, if it is thought desirable to make any alterations in the details of the bill, they can be made in the select committee.

Mr. O. ROTHFELD : Mr. President, when I tried to catch your eye just before the last honourable member who spoke, I am afraid that it was with the intention, which appears to be very far from your own intention, of moving a closure. I feel now, in any case, that it would be very unfair to move the closure, especially as there are several gentlemen who desire to address the House, and, I have no doubt, efficiently contribute to the manner in which the scheme is to be put into practice. But I feel sure that all of us in this House are absolutely agreed with the primary purpose of the bill, which is compulsory education. I gathered also both in and out of the House that what I might call the minor principles of the bill have also met with general assent, and the most which honourable members desire to do is to express their views on the smlaler details as to the application of the principle, for the information of the select committee and the Honourable Minister. I had therefore proposed to move the closure, because I had thought that very possibly these details had now been sufficiently discussed. But, as I have said, at the present juncture, it would be unfair even to suggest that, and I am very glad to have this opportunity myself of mentioning one point, and, I hope, setting an example to honourable members who will follow me, in brevity. The point is one which was....

The Honourable the PRESIDENT : Not merely brevity, but absence of repetition.

Mr. O. ROTHFELD : The point is one brought forward by the member from Satara. It has been briefly alluded to by the Sardar from Broach. I trust that I will not be accused of repetition as I shall lay emphasis on it and in other matters of detail. But before doing so, I wish to express my gratification which, I am sure, every member in this House and especially the honourable members on the front bench must have felt, at that clear assurance which the honourable member from Satara gave, that whatever taxation may be imposed for purposes of education, he would accept it at once.

But the point which he made to which I wish to reply refers to the school boards. Now, the constitution of the school boards has had a good deal of criticism already in this House on this bill, and it had also a great deal of criticism on the kindred bill, namely, the Local Boards Bill. The clauses in the two bills, as regards this matter, are parallel ; they do not meet ; there is a slight discrepancy between them, and it will be for the select committees on the two bills to reconcile them. The select committees will have to consider exactly the constitution of the school board and the administration of education not only in the local boards but the municipalities in this Presidency. But the honourable member from Satara rose on this point to dwell, and perhaps at somewhat exhaustive length, on the absolute necessity of ensuring that the school board was filled, at least to a very large extent, by what he described (to quote his own words) as the *intelligentsia*. In Europe the term "intelligentsia" connotes a rather offensive meaning such as we hesitate to apply here. But I think that the honourable member for Satara, Rao Bahadur Kale, used that expression as being one of praise and not of reproach. I therefore venture also to make use of it. Now I am certain that the honourable member

[Mr. O. Rothfeld]

has not interpreted correctly the views of the House in this matter. I concede that there should be some persons on the board who have got experience of educational questions and the method of work connected with them. That, I am sure, was all that was intended by the Director of Public Instruction. It may be desirable to appoint to some extent on the board persons well acquainted with educational problems; but to say that the majority of the members of the board should consist of persons with intellectual attainments and sound experience of educational questions is not practicable. I do not think that the honourable member for Satara, Rao Bahadur Kale, would intend to apply the same rule to other walks in public life. I do not think he would be prepared to move a resolution that no man should be appointed a magistrate unless he has first graduated in forgery or murder. The most important point that should be considered with regard to the constitution of the board is that it should be representative of the district for which it is constituted, that it should be representative of the people who pay and who in the past have perhaps been insufficiently considered. It is the rural population that requires the amplest representation on the board, but I can assure the honourable member from Satara that he grievously misinterprets the temper of this House and of the country if he thinks they will remove the control of trained expert officials in order to replace them by an oligarchy, however intelligent.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, it is rather difficult to speak on a subject some of the conclusions of which were arrived at by some of us. However impartial we may be it will be said that we want to ventilate our individual views here. I want to avoid that position. I am therefore coming to examine the question in such a way as to place before the Council a full conception of the whole measure. I will endeavour to do so, and I do not know how far I shall succeed in it.

Now, Sir, we must take stock of things as they are. You have now two Acts, the District Municipal Act and the Local Boards Act. There are two local authorities, different in name, and having different functions. The District Municipal Act has already requisite machinery ready to provide for the necessary sources of revenue, and has ample powers of management and control of primary education. I wish to emphasise these two different positions. I say that primarily this bill deals with the lower primary stage. The upper primary stage is outside the scope of this bill. You have also to remember that this present bill is a complement to these two Acts. In the Local Boards Act, there are certain functions but there is no authority for making primary education compulsory. No doubt, there was the Patel Act, but it was optional and it has broken down completely in my opinion in the crucial test. As regards the Local Boards Act, the House will recognise that the district local boards have no sources of revenue. The only source of revenue which was earmarked for education was 4 pies, and this was placed at the disposal of local boards. Practically no powers were given to these boards as regards control or management, and the Director of Public Instruction was right in emphasising that management, control and everything else was done by the Educational Department. I put it to the House whether we want to undertake the responsibility of managing primary education, and if we do so, we should not provide the necessaries for it. The contention of my honourable friend is absolutely correct that if the local bodies provide the funds, they must have a voice in the management. But that difficulty will disappear as soon as the present filtered method of election is done away

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with and the members of the school board are elected by the representatives of the taxpayers themselves. I wish to draw the attention of the House to clause 50 (*d*) of the Local Boards Bill which is at present before the select committee:

> It shall be the duty (you will find that the word used there is "shall") of local boards so far as the local fund at their disposal will allow, to make adequate provision for the areas respectively subject to their authority in regard to the following matters, namely, the provision of suitable accommodation for, the visiting and maintenance of, and the training of teachers for, primary schools, and the general development and extension of primary education.

You must not forget therefore that the Local Boards Bill in making this an obligatory duty by clause 50 (*d*) has already provided for the general development and extension of primary education. If any detailed provisions are considered necessary, I have no doubt that the Local Boards Bill select committee will meet our wishes. But I want to emphasise the position that it is not true that in this particular bill there is no provision made for the development of primary education. The present bill is the supplement of other Acts. Those Acts will remain as they are and they will have to be read along with this bill. This is an enabling measure and gives the local authorities ample powers for achieving the object they have in view, *viz.*, increasing the literacy and also making universal education spread as early as possible. It has been argued that this bill does not put any limitation of years, and the Honourable Minister is criticised that he has confined himself to the municipalities and urban areas only and not in the first instance to schoolless areas. I wish to draw the attention of the House to the fact that the bill extends to all areas in the Presidency and it has left to the local authorities themselves to make out a scheme and send it for sanction to the Government. Is it not a more logical position for Government to take than that Government should themselves be responsible for introducing compulsion in any local area? The recommendations of the Primary Education Committee have been cautious because they had to go on the evidence before them. The committee did its best to ask as many people to come forward and to put forward their views. What the committee have attempted to do is to focus the opinions of the witnesses themselves as far as possible. I hope you will allow me to say that that was the correct position for them to take. It was their duty to put forward the views of the witnesses who gave evidence before them and not to put forward their own views. Now, Sir, it is a very melancholy fact which oppresses my mind for more reasons than one that in the most advanced province in the Presidency, advanced whether in education or in wealth, there was the greatest opposition to elementary education being made compulsory. Not only that, but when I examined a Provincial Service officer of the rank of a Collcector who came forward and opposed tooth and nail the introduction of compulsory primary education, I was surprised that an officer in that position should have given such evidence, and I was wondering what was at the back of all this....

Mr. B. G. PAHALAJANI: I rise to a point of order, Sir. Are the remarks of the honourable member for Ahmednagar about the evidence of a Government servant before the committee in order?

The Honourable the PRESIDENT: I do not think there is any point of order. Witnesses are examined before committees and when they come and offer their evidence, they certainly lend themselves to criticism. I have not yet observed any personal attack on the officer who gave evidence. Official views are certainly open to comment.

Rao Bahadur G. K. CHITALE: What I beg to point out is that it is no use imputing any motives to me. What I said was that in an advanced province like Gujarat when, from very experienced Government officers who came forward to give evidence when they were examined as witnesses, we found that result, it set me thinking, and I thought whether it was not best to examine this particular measure with more care. When, therefore, motives are imputed to me, you will please bear with me when I put before you the result of the evidence before the committee. On page 56 of the report, let us see what is stated as regards the views of these agricultural people, who cannot speak for themselves here and who, as a matter of fact, answered the three questions put to them directly. What do they say? You will see that the committee found it difficult to get at them. We tried our best and you will find that the result is summarised on page 56. Only three questions as given on page 53 were put to them. You will find that the committee, without troubling them with details, asked them three simple questions. I will draw the attention of the House to them. The first question was: "Are you in favour of a system of compulsory primary education?" "Will you send your children, girls as well as boys, between the ages of 6 and 11 to school, if there is one in your village?" A simple question put to an agriculturist. The second question was: "Do you think the people of the class to which you belong"—the classification is given of the castes or classes there—"would support a compulsory system of primary education and would send their children to school if there was one near their village?" (The distance is mentioned.) "If a compulsory system of primary education is introduced, do you understand that, if any child absents itself from the school, its parent or guardian would be liable to a fine, and do you accept this system and do you think that people of your caste will approve of it?" This was the third question. Now, these three simple questions were put to simple minds, and you will find the result of the analysis on page 56. You will find, Sir, there that even in the Deccan, where the total number examined was 346, the number in favour was 219 and the number against was 127, that is, one-third of these people were opposed to compulsion even in the Deccan. "You will have to allow yourselves to be fined if you don't send your children between 6 and 11 to the school. You will have to bear also taxation." All these questions were put to them in that direct manner, and you will find even in the Deccan one-third of the people questioned were against it. Then, take Karnatak. Very few people came forward of this class to give evidence there. You will find the total number was only 71 and it will be difficult to generalize from only so few. In the Deccan it must be said to the credit of those people that at least a large number came forward to give evidence. In the Karnatak only 7 came forward, and even there you will find that, as regards the third question and the second, 45 were for the questions and 26 against. Then, take Gujarat. We had a large number, 257, out of which only 40 were for and 217 against question No. 1. On question No. 2, 40 for, against 217. On question No. 3, for 23, against 234.

Now, Sir, I only put forward these figures before this House to say whether we are here for voicing our own individual views or to put before this House views of the people whom we represent. If that position is admitted, that we are here to voice the views of those whom we represent, my individual view does not come in. All I ask is, whether a little more caution, if I may say so, in not making compulsion altogether straightway applicable everywhere

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in rather a hasty manner, as proposed by the bill itself, is correct or not, and whether that position ought to be accepted in principle or not.

The Honourable the PRESIDENT : Before we adjourn for to-morrow, I should like to mention that it will be our duty to attend to-morrow at 5 p.m. the "At Home" party at Government House, which is in the nature of a command. We shall have to rise at 4 o'clock as the "At Home" party comes off at 5. Therefore, I propose, subject to the assent of the House, that we should sit to-morrow at 12 noon and go on till 4 o'clock. Does that meet with the wishes of the House ?

The Honourable Dr. R. P. PARANJPYE : There is the Finance Committee meeting to-morrow.

The Honourable the PRESIDENT : The committees should yield to the convenience of the House. The demands of the House are superior to the demands of any committee. We have to attend the party at Government House at 5 o'clock and therefore we must meet earlier to-morrow than the usual hour. Therefore, the Council is adjourned till 12 noon on Tuesday, the 3rd October and will sit till 4 p.m.

*Tuesday, the 3rd October 1922.*

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The Council re-assembled at the Council Hall, Poona, at 12 noon on Tuesday, the 3rd October 1922, the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
FERNANDES, Major C.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Honourable Khan Bahadur SHAIKH
GODBOLE, Dewan Bahadur K. R.
GRIFFITH, Mr. F. C.
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HAVELIVALA, Mr. M. A.
HAYWARD, The Honourable Mr. M. H. W.
ISRAN, Khan Saheb G. A.
JADHAV, Mr. B. V.
JENNINGS, Major-General W. E.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.

Ker, Mr. J. C.
Laghari, Khan Bahadur Khair Baksh
Lalbhai Ambaram, Mr.
Lawrence, The Honourable Mr. H. S.
Ligade, Mr. S. P.
Mansuri, Khan Saheb A. M.
Mead, Mr. P. J.
Mehta, The Honourable Mr. C. V.
Mohomed Salahuddin K., Mr.
Mountford, Mr. L. J.
Mutalik, Sardar V. N.
Nilkanth, Rao Bahadur R. M.
Nimbalkar, Mr. K. B.
Ojha, Mr. Dipchand T.
Pahalajani, Mr. B. G.
Painter, Mr. H. L.
Paranjpye, The Honourable Dr. R. P.
Patel, Mr. B. P.
Pradhan, Mr. M. W.
Rahimtoola, The Honourable Sir Ibrahim
Saherwala, Khan Saheb I. A.
Salgar, Mr. R. G.
Sayed, Mr. Mahomed Kamal Shah
Sayed, Shahjade Saheb Haidar Saheb
Setalvad, The Honourable Sir Chimanlal
Sindore, Mr. H. N.
Surve, Mr. A. N.
Thakor of Amod, Sardar Naharsinghji
Trivedi, Mr. G. B.
Vichare, Rao Bahadur D. A.

The Honourable the PRESIDENT: Order, order.

## PRIMARY EDUCATION BILL (BILL No. XVII OF 1922).

(Debate on the first reading resumed.)

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, the present reformed constitution itself provides that if Government machinery is to be replaced by any power, the present control will have to be transferred to the electorate. It is the electorate which in years to come will come into power as the present system of Government gradually gives way. That means that the present administrative power will be so transferred to the electorate, namely, voters, and as the present voters' list as proposed in the Local Boards Bill is the same on which the local Council is recruited, you will find what a potential power the district local boards possess. I wish to point out, Sir, that the

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members who will be elected to the district local boards will be elected, returned, by the very voters who will also send two representatives of the district local boards to the Council. So then, the district local boards will be elected directly by the voters who will have also the further representation of two members on this Council. You will, therefore, see that if the members are of one mind, any strong Government can be made to bend to the will of the electorate. That is in fact the constitutional position. I am asking, Sir, if that is not the correct position to take, that instead of Government or we ourselves dictating to the electorate certain powers or certain things, whether it is not a proper process in the proper evolution of our constitutional system, rather than having an arbitrary measure from Government not based on the will of our own people.

Then, I would draw your attention to the report of the Primary Education Committee, from which you will see that this measure has been conceived in the proper spirit which has been put before it by the witnesses which appeared before it. Now, Sir, you will find that, as far as a very large proportion of our Mahomedan friends are concerned, very few of them came before the committee. That is a fact to be much regretted, but mere regrets are no good. You will find that, as far as even the Deccan was concerned, there was only one Mahomedan non-official witness. Is it not a regrettable fact that, when we ask Government to push through a measure of this importance, one important community, as far as their views are concerned, should be conspicuously absent in pronouncing what it thinks about such a vital measure ? You will find also at page 55 of the report that in Gujarat we come across very curious results. Out of a total of 59 witnesses, there were 6 for and 56 against as far as the first question on page 53 was concerned ; on question 2 there were 6 for and 53 against ; on question 3 there were 4 for and 55 against, and I was amused at the comment that was made by the honourable member for Ahmedabad representing the Mahomedan constituency, when he criticised the present measure as giving them stone when they asked for bread. Is the committee or is the Government not right in insisting upon caution when no materials have been put before the committee by a very large class of people whom this measure must affect in almost every-day life? I am putting it to you, therefore, whether the present bill is not conceived in the right spirit of the evidence that was placed before the Government and before the committee. If that is appreciated, much of the point of this criticism will be taken away—I hope it will, at least in the case of many of the honourable members who have spoken.

Then, Sir, I take up another position. There has been unfortunately a regrettable misconception of the scope of the bill. I say " regrettable " because, whatever the views of the committee have been, the Honourable Minister has done his best to get hold of the clear independent opinions and to base the measure on the views as were found in the evidence. May I know from any honourable member here in this House whether the Government has said anywhere within the four corners of this bill that this compulsory education shall not apply to the areas in which there have been no schools ? I shall be very much grateful if any honourable member will do that. It is not a fact that the bill has been framed in such a way that those who have food are being more liberally fed and those who are hungry have to go starving. I have read the bill very carefully, and I shall be much obliged to my honourable friends who will follow me if they point out any clause in which the recommendations of the committee in that behalf have been made. The committee has rightly taken up the line of least resistance. There is the responsibility thrown by

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this measure on the local boards which are in future to be made responsible to the people in the proper sense. Then, the Honourable Minister says that the district local boards should make out a scheme. Supposing a district local board knowing all its responsibilities goes forward and says that it will make this scheme applicable first to the area which is schoolless and takes the financial responsibility for carrying out this programme, may I know whether in any clause of this bill there is anything under which Government can say that that scheme shall not be put into force? It is not so. The only thing is this, that when we criticise a measure, we must have the right scope and conception of that measure before us. Therefore, much of the point will be taken away from my honourable friend from Belgaum's minute of dissent when the responsibility is thrown on the district local board itself in selecting the proper areas. That is the next point I wished to make.

As I have been saying, the district municipalities are governed altogether by another Act. You will find that this bill excepts city municipalities as a class. The city municipalities are governed by the District Municipal Act and as a class they have been excepted by this bill. I draw attention of the House, Sir, to the definition of the expression "local authority". "Local authority" means a district local board or a city municipality which is authorised by Government to manage its own schools. My conception is that the city municipalities, as far as they are governed by the District Municipal Act, appoint their own school committees. May I ask if there is any misconception on the point that the Honourable Minister will be well advised in having as far as possible a personnel of almost the same persons on this bill as on the Local Boards Bill so that the two measures will be made to fit in?

Another thing I wish to point out in this bill is this: those of us who have been in the actual administration of these local board areas and school boards and also city municipalities feel strongly that some of the smaller municipalities find at present the educational expenditure they have to incur on schools so heavy that, as a matter of fact, they find themselves unable to meet any other expenditure such as for sanitation, roads and so on. Take the instance of any town municipality in any district that has an income of about Rs. 5,500; as their expenditure on the present schedule of teachers' salaries may come to about Rs. 6,000, naturally they complain of course that this expenditure has been forced upon them and that they are not able to make both ends meet and therefore some of the municipalities have made proposals that it would be much better if their schools were handed over to the district local board, so that they will have a lighter schedule of taxation and they will have larger resources available for meeting the wants of their people so far as roads, sanitation and water-supply are concerned. Now, if you examine the present state of the finances of smaller municipalities in any district, you will find the same thing. All that this measure does is that if any of these municipalities like, they can go to the district local board and say that they want to hand over primary education to the district local board: then again, instead of getting half of the new expenditure, they will get two-thirds. It is said that in this arrangement some independence of these small municipalities will be sacrificed, but that is left to their choice. There is no intention in this bill to deprive them of their present powers, irrespective of their wills.

Then I come last, Sir, to the question of control and management, which has been rather a vexed question. I am prepared to say that the proposed measure for powers and control may appear halting, and I would have liked

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them to be more clear and the position of local bodies and that of Government defined in a more pronounced manner. But the position is this. The present method of management of primary education is open to very grave objection. There has been departmentalism all through, and that has to be put an end to, and you will have to substitute that by some system under which the people and the Government will have some degree of supervision and some degree of control. The position under the bill is this. The district local board shall elect a district committee which will manage the primary education and it shall have an administrative officer who will be appointed after consultation with and with the sanction of the Government. I think it is much better to have a committee elected by the district board, so that the committee being a delegate of the board, will be properly controlled by the board. It could be argued that by that system some persons whose presence may be absolutely necessary the district local board will not be able to get. The district local board will naturally elect from its own members, but I am sure that they will also try to reserve one or two places out of these to others who have special knowledge of education. For instance, it is just possible to have a retired deputy inspector of schools on the board to give his views. All this measure enables the district local board to do is to get such men if they are not elected. Then again, it is necessary, in order to give primary education as free and full a scope as possible, to have the attendance or the honorary services of some educated woman. Now, in several districts you find such women, but I do not know whether our country is so advanced as to elect women to the district boards : my own view is that they will not be elected. So far as girls' education is concerned, I think the district local boards will be decidedly in a better position if they are able to elect a woman to their school board. If the select committee can find any better method of achieving this object than is provided in the bill, I am sure the Honourable Minister will be able to accept their recommendation. We have now a responsible Minister and I am absolutely sure that he will square up all differences that are not important.

Then, there remains the question of finance. There are two opposite views which are absolutely irreconcilable. One view is that it is the duty of the Government to find all the money that is required from the general revenues. It was argued by the honourable member for Satara that there were 11 crores available and on that 11 crores primary education should have the first claim. I am afraid the figures he gave were not very convincing. You will find, Sir, that out of the 13 crores, 3 crores are already earmarked, for instance 1 crore of the land revenue is earmarked for inamdars, etc. ; and they are only double entries. Out of the balance about 5 crores or 5·7 crores are earmarked for the services generally. I am giving only broad figures. Then, there remain 4 or 5 crores with which we have to meet Public Works expenditure, expenditure on water-supply, education and what not. It is precisely for that reason that this House insisted on having a cut of 60 lakhs, and a cut of 60 lakhs has been achieved. Now, we want 2 crores for primary education being made compulsory, but I know of no resources from which Government can meet it. It is unreasonable to say that Government have somewhere a very big chest of money from which large sums of money can come at any time. The Honourable the Finance Member has said that there is no such chest. It is, of course, possible for Government to raise it by additional taxation, and, if you give Government the challenge, they will accept it : they will say " Give us the power to tax, and we will get you the two crores. " You know also that the Govern-

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ment in this bill offer a grant which though small is yet sure. I am not sure also whether the alternative suggested to you to tax yourselves within certain schedule of taxation, the sanction for which will have to be obtained, is not a better method than asking the Government to tax you in a particular way, which I have already referred to. I leave it to you to judge. As far as Government is concerned, perhaps they might accept any position which the House or the select committee suggests. Government's resources are unlimited and they will be able to put on taxes. If I were given a choice, I would accept the other alternative making Government responsible for two-thirds of the expenditure and making the local bodies responsible for the remaining one-third. This grant-in-aid of two-thirds should be the minimum, so that in any district, such as Ratnagiri, or in any other district where you cannot find the money required by means of taxation the grant-in-aid might be raised above two-thirds. The Honourable Minister on the administrative side should not be stultified in giving you more grant-in-aid. At the same time, I would rather like that this two-thirds grant-in-aid is relaxed in areas which can bear more taxation. I think that the two-thirds grant-in-aid, irrespective of liability to calamity and famine, and the capacity to bear taxation, will not be accepted by all. Some honourable members appear to be taking too narrow a view of the matter, and I may be considered to be speaking on behalf of my district. Naturally they are anxious that my district should not come forward for more grant-in-aid, but should be satisfied with the maximum limit of two-thirds grant-in-aid. If in the opinion of Government it is justifiable, then it is all right. The Government will sit there in judgment over all the local bodies and distribute the resources. The point I wish to make out is that there should be a little of 'give and take' policy. I do not think I need any more occupy the time of the Council, and I hope my views will be understood in the spirit in which I have expressed them.

Khan Saheb I. A. SAHERWALA (Northern Division): Mr. President, I rise to utter a note of warning against compulsion being introduced in backward districts like the one to which I belong. In my district there are two municipalities, one at Godhra and another at Dohad. The expenses on education at Godhra, when I had the honour of being its president, amounted to about Rs. 15,000, but at present, owing to high cost of living all round, and consequently the necessary increase in the teacher's pay, the expenses for education have risen to Rs. 30,000—a circumstance which has reduced the municipality to the unhappy position of not paying the teachers for the last five months. If this is the plight, Sir, without compulsion, I leave the honourable House to judge the extent of the municipal bankruptcy if compulsion is introduced.

In Panch Mahals district, to which I belong, there are many small villages and some big ones. The main population consists of Bhils, Kolis and Nayakdars, who are cultivators, and therefore would not care to send their children to schools.

I object, Sir, to clause 8, sub-clause (2), which provides for Government's interference, if the district local board does not care to make any such compulsory scheme. I also want that the district local board should elect the whole of the school board.

Again, Sir, although I see some Mahomedans are prepared to send their girls to school, I emphatically submit to the honourable Council that the Bohra

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community, to which I have the honour to belong, is strictly prohibited by religion to send their girls to schools. I therefore very appealingly urge that the penal clauses regarding girls' attendance at schools must not remain on the statute book.

If, in spite of all these protests, compulsory education of boys at least is introduced, I would submit that, so far as my district is concerned, only the revenue arising out of forests should be utilised to meet the increased charge to some extent on account of compulsory education.

With these words, I oppose the principle of compulsion underlying this bill and resume my seat.

Mr. D. D. GHOLAP: (Addressed the House in Marathi): Mr. President, many honourable members have spoken on this bill which is being discussed in this Council for the last three days, and they have all congratulated the Honourable Minister, for what reasons I do not know. I am sorry I cannot agree with them in that respect. Last year when a resolution on the subject of compulsory education was brought forward in this Council, and I addressed the Council with regard to that, many honourable members thought that I was speaking on behalf of the depressed classes only, but any remarks which I shall have to make on this bill will, I trust, not be construed in that sense.

During the last session of this Council when my honourable friend from Satara (Mr. Jadhav) moved his resolution regarding the establishment of committee for the recruitment of non-Brahmin backward classes for Government appointments, speaking on the same I clearly pointed out how the Brahmin bureaucracy worked against the interests of the backward and depressed classes. In this bill also, I am sorry to say, the present conditions are attempted to be perpetuated, and I wish to try to tell the House how the provisions of this bill will work to the detriment of the depressed classes. It has been provided that the school board will consist of the members of the district local board. When the Local Boards Bill was being discussed in this Council a few days ago, I pointed out how the depressed classes are neglected there. It was not conceded that even nominations must be made independently from the depressed classes in local self-governing institutions, and I feel that there is not the least chance of that community being represented on the school board. It has been provided that the school board shall consist of fifteen members, out of whom three will be nominated by Government; the remaining persons are to include women, representatives of minorities and persons experienced in education. Supposing that ten out of the twelve are to be elected, the depressed classes will not have a chance there. Considering the fact that the depressed classes constitute a substantial part of the community, it is surprising that Government should prefer to look after the interests of women rather than those of the depressed classes. In the villages, the Brahmins being in the minority will be represented by nomination, and there being no experienced men in the depressed classes, there will be nobody to look after their interests. I submit that it is not fair to make no provision for the representation of the depressed classes in any direction.

Those municipalities which have not the right of looking after the schools will have to transfer their schools to the district local boards, and the expenditure will depend upon the number of children attending schools from the local boards, the share borne by Government being in proportion. Many honourable members have said that many of the smaller municipalities have not been

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able to take advantage of the Patel Act, because most of their funds are spent in sanitation and other matters. They have no funds to take advantage of the compulsory principle. Under this bill, I do not think the municipalities will go a step further, and in order not to spend money on education, some of them may go even to the extent of seeing that the number of children attending schools is not increased. In my opinion, it should not be left to the will of Government to introduce compulsion or not in any area as they please.

In clause 18 it has been provided that an officer should be appointed to increase the number of children attending schools. It has also been provided that if a child of school-going age does not attend school, the parents should be prosecuted and fined by a patel. But I think we are all aware how the patel harasses the people in the villages. I think it is not right that this power should be in the hands of one person or in the hands of the patel.

The Honourable Dr. R. P. PARANJPYE: Who should have the power?

Mr. D. D. GHOLAP: A magistrate should have the power. Clause 23 of the bill says:

"The Government may by notification in the *Bombay Government Gazette* exempt any particular class or community in any area of compulsion or part thereof from the operation of this Act."

But I regret very much to say that my honourable friend from Ahmednagar, who was on the Education Committee, on which I had also the honour of serving, has pointed out that three questions were sent out to the ignorant people living in the villages with a view to ascertain their views on the proposed compulsory education measure and that those people did not give a favourable opinion with regard to it. But I would like to point out that the revenue officers, the police officers, and other officers of Government, who called these poor villagers to give evidence on these questions, probably did not give any previous indication to them as to why they were being called, and what was the object of it all. They did not tell them beforehand on what they were being invited to give evidence, and it is just possible that those poor village people, not knowing the exact object for which the evidence (that is, their opinions) was being taken and not knowing even the reasons for which they were called, may have got frightened, either through their own ignorance or by anybody's influence, and probably gave an unfavourable opinion. They probably thought that there was some particular object in the Government officers calling them to give evidence on the subject, and that they might come into trouble with them if they gave their opinion strictly according to their own real views and desires.....

The Honourable the PRESIDENT (In Marathi): The honourable member was a member of the Education Committee and is now attacking the Government officers. He practically complains that they had perhaps coerced the witnesses into giving a particular opinion, instead of their own real opinion. The honourable gentleman as a member of the committee had an opportunity when the committee examined the witnesses to cross-examine them and ask them whether they had been either tutored or coerced by any officers of Government or by anybody else to give a particular view before the committee. Did the honourable gentleman cross-examine any witnesses in that way and try to ascertain whether they were frightened owing to any officers' influence or direction?

Mr. D. D. GHOLAP: No; I myself did not raise that point.

The Honourable the PRESIDENT : Therefore, the honourable gentleman should not on mere suspicion make any insinuation or any charge against any officers of Government or anyone else. That was a matter for the committee.

Mr. D. D. GHOLAP : No, Sir ; I did not make such a charge against the officers, and my remarks were specially directed to the evidence of such of the villagers as did not come before the committee at all, but appeared before the taluka or the district officers and gave their evidence there. They may not have given their real and sincere opinion before those officers through sheer fright due merely to their ignorance or simple-mindedness. That is what I meant and intended by the remarks I made. My point is, if those people were not told beforehand the nature of the questions that were going to be put to them and the reasons why, then it would not be right or proper on our part to form any conclusion or judgment on the basis of what those people said to those officers on the spur of the moment.

Now, Sir, my honourable friend from Panch Mahals seemed to suggest that in certain villages there, there are a great number of Kolis, Bhils and such other people, and that they are all uncivilised and will not take to education, and therefore compulsory education should not be applied to them. He further seemed to suggest that, if they did at any time take to education, then there would be difficulty for the other people in securing the services of coolies, etc. Well, if that is the object we should aim at, that particular classes or castes who may have been following any particular profession, at present or in the past, should not take to education or should confine themselves to those professions, then what would be the position of the untouchable and the backward classes ? There would be no encouragement to them at all in the matter of education, which is absolutely necessary for everyone of us. Therefore, my submission to the Council is that there should be special provisions in the bill to safeguard the interests of the untouchable and the backward classes.

These, Sir, are the views which I desired to bring before the House for their consideration on behalf of the untouchable and other backward classes, whom I have the honour to represent in this House. I am voicing their feelings as well as my own in this matter and I felt that their interests would not be served unless I put forward these suggestions before the Council. I have accordingly brought them to their notice and hope the select committee will give their earnest and careful consideration to all the suggestions I have made.

Mr. P. R. CHIKODI (Belgaum District) : Sir, this bill is a measure which marks an important departure in the system of primary education. But, Sir, I doubt very much whether this measure, which claims to introduce compulsion, will be successful in its working at all. For, the principle of compulsion that is intended to be introduced is very important in this way, that the removal of illiteracy is the fundamental duty of the State, and whether this bill goes to remove the illiteracy is the test by which the success of the measure is to be judged. Judged from that point of view, I think the measure is the most disappointing one that has been introduced in this House. Now, Sir, much has been said by my honourable friend from Ahmednagar on the point that the wishes of the village people ought to be consulted and that, in accordance with those wishes, a bill ought to be introduced in this House. But I say, if it is the fundamental duty of the Government or the State to remove illiteracy, then whether the villagers will it or not, compulsion must be introduced. That view I hold—and hold very strongly—and to that view my honourable friend

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from Ahmednagar has not given me a direct answer. I should like to put it again to the House whether such villagers, namely, the Bhils, the Mahars, the Kolis, and so forth, whose evidence has been taken not by the committee but by the District Magistrates or the Collectors, with the help of one official and another non-official gentleman, are in a position to say whether the fundamental principle of compulsory education is or is not to their interest. Is any man in the street, ignorant as he is, competent to give his opinion on such an important principle? It is for those who are driving the ship of State and who have got at heart the interests of the country as a whole to give their opinion on this principle. They are to judge whether a particular measure is for the interest of the country or not. When we are, therefore, considering this measure, it is no use saying that the Mahars, Mangs, Bhils and others were or were not for compulsion. Even supposing that we should select a line of least resistance in a matter of this kind, I would say, quoting from the very figures which the Honourable member for Ahmednagar district (Rao Bahadur Chitale) quoted, that the situation is more favourable than it is supposed to be, and Government ought to have taken a bolder step than it has taken. For, Sir, I calculated the figures this morning with a view to ascertain the probability or strength of the favourable opinions of these backward communities, and I find that the percentage of the witnesses who gave evidence in favour of compulsion comes nearly to 70 per cent. in the Karnatak. These communities, it should be noted, are only confined to such classes as the depressed classes or the wild tribes in the jungles. I would ask every honourable member of this House to go through the names of those who have given evidence in this connection, and then he will find that they are not of the communities as the backward communities such as Marathas, etc., are generally taken to be. Even for these communities, the percentage in the Karnatak is 70 per cent., in the Konkan it is 69·2, and in the Deccan 62·1. As regards Gujarat and Sind, I find, as I have stated in my dissenting minute, from the evidence that is recorded, that there is less favourable opinion as regards compulsion, but if you go behind the evidence and if you judge by yourselves, I would say that Gujarat also is very favourably inclined towards the introduction of compulsion. This is evident from the recorded evidence of persons who are capable of giving an intelligent opinion. My honourable friend from Ahmednagar district said that Gujarat was against compulsion, because a certain Government servant came before the committee and told them that it would be to a certain extent impossible to apply compulsion there. But, Sir, it is very hazardous to generalise in that way. I would ask my honourable friend from Ahmednagar district why he should not take into consideration the evidence of another equally enlightened and educated gentleman from Gujarat. That gentleman was in the Educational Department and, although he has resigned his post now, is still engaged in educational matters. He stated in his evidence before the committee that he was a Gujarati himself and being an educational officer toured through all the parts of Gujarat and was of opinion that Gujarat was prepared for the introduction of compulsory education. He might be wrong or he might be right. But the fact is there.

Then, Sir, in Sind also I do not think the situation is worse than in other parts; but, as I have already said we are to judge here as the custodians of the rights and interests of the ryots and we are to suggest such legislation as will be useful not only to them, but to all else who inhabit the country. If we look at this question of compulsion from this point of view, I am sure this House will come to the only conclusion that a bolder step for the introduction of

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compulsory education should be taken, and I hope the select committee will amend the bill in that way and also will effect changes in various clauses.

Then, Sir, I come to the point of programme.....

The Honourable the PRESIDENT : Does the honourable member suggest that the bill ought to be framed on the lines of total compulsion and not restricted as now in the bill ?

Mr. P. R. CHIKODI : Yes, Sir.

The Honourable the PRESIDENT : I am enquiring as a point of order, so that there may be no difficulty hereafter. You say, in the select committee the principle may be enlarged. I do not think that the principle can be enlarged if this bill passes the first reading, because if this bill passes the first reading, the principle affirmed will be compulsion on more or less restricted lines and you cannot enlarge it afterwards.

Mr. P. R. CHIKODI : The Honourable Minister in charge appears to suggest that this bill provides for compulsion without any restriction. Am I right ?

The Honourable Dr. R. P. PARANJPYE : No ; with restrictions.

The Honourable Sir IBRAHIM RAHIMTOOLA : I rise to speak on the point of order, Sir. It appears to me that the best procedure on the point of order would be to regard "compulsion" and "free education" as the only principles underlying the bill leaving it to the House at the second reading to regulate the manner in which compulsion should be applied. It may be that the select committee may decide to restrict its application to a narrower limit than is provided in the bill. They might decide to enlarge it. So long as the principle is unaffected, its application may be regulated according to the views of the House at the second reading.

The Honourable the PRESIDENT : All I rule now is that when once the principle of the bill has been affirmed at the first reading, it cannot be enlarged, that is to say, you cannot widen its scope. Whether you can enlarge it in such a way as not to enlarge the scope is a matter into which the select committee will have power to enter.

Mr. P. R. CHIKODI : I say, Sir, that the bill is really not a measure of compulsion, but it is a semi-compulsory measure and this, Sir, will make my point clear.

If you refer to clauses 8 and 9 of the bill you will find that "a local authority *may* by resolution"—it does not compel anybody to introduce compulsion,—and secondly, in the actual working of this bill, it will amount to this, that the local board might not introduce compulsion, say, for a couple of years, and then it is also not known whether Government will call upon that local authority to introduce compulsion. If it does, so far so good, but if it does not, what is the remedy ? I cannot say that the Honourable Minister in charge of this bill will always be at the head of the Educational Department; he gave us an assurance the other day that he would do this and do that. One cannot be sure ; what we want is a definite guarantee in the wording of this bill itself that compulsion will be introduced at a stated time under stated circumstances. Then only I would say there is real compulsion.....

The Honourable the PRESIDENT : That is a matter which can be dealt with in select committee. Then in the matter of the question of principle, which is one of compulsion, I find if there is any restriction upon that principle

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in clause 8, it is of a discretionary character, namely, "the local authority may by resolution declare its intention to provide compulsory elementary education in the whole or any part of the area subject to its jurisdiction" and so on. It is left to the local authority. That is a matter which may be dealt with in select committee.

Mr. P. R. CHIKODI: The programme is the next point which I now take up. This point was first debated in the committee and much time was lost in arriving at a conclusion, and I believe strongly that this Council should lay down a definite time limit in the bill itself—at least five or ten years.....

The Honourable the PRESIDENT: Is it necessary to pursue that point further after my ruling on that point, namely that that is a matter which can be discussed in select committee and afterwards at the second reading?

Mr. P. R. CHIKODI: The next point of importance is the finance, and I say, as I have said in my minute of dissent, it should be a charge upon the general revenues of the province. I am very glad to note that Government have indirectly acknowledged that principle when they have put it in clause 11 that they shall agree to bear half the expenditure and so on. That principle, Sir, that it should be a charge upon the general revenues, Government have acknowledged and I particularly ask this House to remember this departure of policy by Government. It is a departure, because up till now Government did not agree that they were responsible for primary education and held that it was not one of their obligatory duties that the masses should be educated. If we read the proceedings of the Legislative Council when the Patel Act of 1918 was discussed, the then Honourable Member in charge of that bill clearly stated that it was the duty of the municipalities to find money for it and that, if Government gave a grant, it was only as a matter of favour. Government have now changed the policy—which is most welcome—Government have now come forward to admit that this charge should be upon the general revenues of the province and all that I ask is, say so boldly and in an open manner. That is all I want, and not what the Honourable Minister in charge of the bill said that Government were giving 88 per cent. or 90 per cent. Very well, if that is so, why don't you say that Government shall bear all the expenditure and take a contribution from the municipalities and local boards? Why don't you do it? These bodies only pay one-tenth while Government pays nine-tenths. If that is so, let Government say clearly that they shall bear all the expenditure and take a contribution from the municipalities and local boards and in this way.....

The Honourable Dr. R. P. PARANJPYE: The local bodies have to manage education.

Mr. P. R. CHIKODI: I am talking of providing elementary compulsory education. It is the Government's primary and imperative duty, it is the duty of Government to treat compulsory primary education as a national concern of the State. As regards any other kind of education of a higher character, of course, you may leave it to local bodies if you like, municipalities or local boards. The first necessity is that every citizen should be educated. That duty is binding upon Government and, if that is binding upon Government, they ought to bear the expenditure—the whole expenditure—and see that every citizen, every man, every woman, whether that person be a coolie or a bhangi, ought to be made literate. If that is acknowledged, it will be better and for that purpose, I think all the representatives of the backward communities

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will vote any taxation. I only want that that principle should be acknowledged and incorporated in this bill. Every one will support it. I think I am right in saying that every one will vote for any proposals of taxation if more money is needed for that purpose. The honourable member from Ahmednagar said that the impression is prevalent that Government have a large chest from which any amount of money can be drawn whenever required. We do not want the honourable member from Ahmednagar to come and tell us that. We know the budget just as well as he does. We also know that where there is a will there is a way. We know that if Government want to do a particular thing, they do not go and ask people when and how they should find money, but they proceed with the thing they want to do—they do not go to villages and ask every villager "How shall we find the money or how shall we do this thing or that"? We know that when once Government determine to carry out a certain thing, they will do it, whether people agree to it or not. I ask, why should not the same attitude be adopted in the case of this compulsory primary education also ? I say that it is better if Government recognise their imperative duty and come forward and bear the whole expenditure, and thus make the way smooth for the introduction of compulsion. It is necessary, as the honourable member the Director of Labour Bureau said, that no moment should be lost, and, if that is so, it is absolutely necessary that the necessary funds should be furnished by Government and compulsion should be immediately introduced—otherwise we shall not be better off, but shall remain as we are now, and our position will not be improved. Supposing we intend to apply compulsion immediately, the first year is taken up in taking census of the children and then we shall have to ascertain what the cost will be; then we shall have to choose what taxes will have to be imposed. When all these preliminaries are being gone through, the board goes out of office and who knows what the new board will do ? The Council may also go out of office. So it is absolutely necessary that the burden should be taken by Government themselves and then the expenditure should be borne by Government. If that is so, the local authority, whatever it may be, will be able to introduce compulsory education immediately.

Those are the views I want to place before this House and I hope the House will accept them. With these remarks and also with a hope that the suggestions that I have thrown will be attended to in the select committee and also in the second reading of the bill, I support the first reading of this bill.

Khan Bahadur S. N. BHUTTO (Larkana District): Sir, while supporting the first reading of the compulsory Education Bill, I would like to bring to the notice of this House that so far at least as the Mahomedans in the province of Sind are concerned, the move regarding female compulsory education should be very cautious. If you remember, Sir, while the Committee was recording evidence, at their sitting at Karachi on compulsory education the only witness, who was one of the representatives of people that were examined, was K. S. Dilmurad Khan Khoso, President, Jacobabad municipality, who opposed the principle of compulsory education—in fact the only one who really represented the true views of the Mahomedan population of Sind on the subject. Though he was criticised by the so-called enlightened educated class of people, whose anxiety is simply to secure advertisement for themselves, the only way from their point of view to build a reputation for themselves, and ignore the realities. Therefore, I suggest that there should be a provision in the bill that in the case of those communities who are opposed to female

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compulsory education, on their application they should be exempted from the operation of this Act. Sir, for example, I would give my own instance—I would not agree to send my girls to schools, but would rather provide for their education at home. However strong I may be on the point, I may be absolutely in favour of female education but, Sir, I do not belong to the city of Karachi or Bombay or Ahmedabad where social customs are not so rigidly enforced, so that I could have my own way. I dare not ignore the wishes of the masses, those thousands and thousands that follow me. I am bound to respect their views as their leader; otherwise there is every chance of my being outcasted. Time may come, when one can have his own way but as the circumstances are, it appears to be far off. For these reasons it is absolutely essential that there should be some provision in the bill which will make the application of compulsion optional in the case of female Mahomedan population in the province of Sind from which I come. Otherwise no number of magistrates will suffice to cope with the prosecutions unless a special staff is appointed at a great cost to harass and intimidate respectable class of people, which will not be a wise and proper course to adopt.

So far as finance is concerned, I do not think there should be any trouble. The public will have to find the money, whether they are taxed directly by the Government or by the local authority. It is all public money. Government does not create its own funds. People want compulsory education and the control, and they must share the burden of responsibility. With these remarks I support the first reading of the bill.

Rao Bahadur S. D. GARUD (West Khandesh District) : Mr. President, I may be permitted to join the previous speakers in congratulating the Honourable Minister on the introduction of this bill. He has in these days of financial stringency really taken a bold step to meet the universal desire for compulsory education. It is too late in the day to argue on the advantages of compulsory education; and it would be trying to convince the already convinced. There was practically a universal desire to have compulsory education when the Patel Act was passed. I was in this House along with the honourable mover of the bill, and we know with what enthusiasm it was received and with what enthusiasm it was passed. But subsequent years have also shown us that the Act was wrecked on the hard bed-rock of finance. When the Act was passed the Dhulia municipality also joined in the universal enthusiasm, and took up at once the question of submitting an application to Government. But, when we examined our resources, we came to the conclusion that there was no chance of introducing that Act in our city unless Government came forward with a grant of two-thirds of the expenditure. Government then were only sitting on the fence and had taken up the attitude of critics: they were in no mood to help local bodies to really put that Act into operation. Therefore the first application was objected to not only on this ground, but on several grounds. The matter was under consideration until His Excellency came to Dhulia in August last. He brought us the glad tidings that the Government had given their sanction to the introduction of that measure. Now, we are on the eve of cancelling that old measure and of introducing the measure before us which is more practical and liberal.

The two things which I take exception to in this measure are the question of the cost and the question of control. In the first place when the Municipal Act of 1883 and the Local Boards Act of 1884 were passed, when they were transferring the responsibility of education to local bodies, Government had

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to consider what share of the cost they should ask local bodies to contribute. The commentary on the Municipal Act of 1883 makes a note that the municipalities were only expected to pay about 4 per cent. of the cost of education and the rest was to come from Government. The Act of 1884 came to a definite understanding with the local bodies. It stated that the district local boards shall contribute one-third of their revenue for education and the balance should be met by Government. It is on account of this statutory provision that Government had been, in certain cases, put to the necessity of contributing 90 per cent. of the cost in the case of district local boards. In the case of municipalities the Government have undertaken to finance the municipalities to the extent of half the cost only recently. So gradually, what was a provincial burden was transferred to local bodies, and it is now being regarded as the sole burden of the district local board. This is a hard position to take. I agree with my honourable friend Mr. Chikodi when he said.....

The Honourable the PRESIDENT: You should not refer to another honourable member by his name. I have ruled that.

Rao Bahadur S. D. GARUD: I beg to apologise, Sir, for this small dereliction, and to be permitted to proceed. I agree with the previous speaker that this ought to be a provincial charge. The resources of Government are unlimited, and the expenditure on compulsory elementary education ought to be a provincial charge. They can introduce taxation, and the Council will not have any objection to sanction taxation for this purpose. At the same time it is difficult in the case of local bodies to devise in the first place the ways and means for taxation, and to impose it in such a manner as to meet with the approval of Government. If the local bodies were to take upon themselves the responsibility of raising fresh taxation, they will have to be very careful in suggesting the sources. This difficulty ought to be considered by Government. Again, I shall take the case of the Dhulia municipality. When the Dhulia municipality found it impossible to introduce compulsion without the two-thirds grant, they applied to Government for permission to impose certain taxes. The Government allowed the municipality to raise fresh taxation. It is not that every local body will be able to raise by taxation the requisite amount, and thus improve substantially its resources. The Government then offered to give half of the expenditure as grant, and the municipality promptly accepted it. In the case of fresh taxation, in the first place, it needs expert assistance to devise fresh adequate sources and the sources are often not at hand. It is not possible to find persons with the resquisite expert knowledge in local bodies. I, therefore, submit that Government should take upon themselves the burden of financing compulsory primary education and leave the local bodies to give them a contribution of one-third of their revenue as was done in the old Act. The Government can show sources of taxation which will improve substantially their resources and insist upon their taking advantage of those sources and if their financial resources are improved Government can even reduce the grant. The expenditure on compulsory primary education ought to be a provincial charge.

Under clause 11, Government have limited their liability, and say that they will bear half the cost of the scheme in the case of municipalities and two-thirds of the cost in the case of district local boards. This proportion is not based on the actual cost, but on the basis of the estimated cost, when the scheme is sent up to Government for sanction. I submit this is very hard on local bodies. For they have not at hand the expert advice and assistance

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which the Government can always command. It is rather too much to expect local bodies to finance their programme of compulsory elementary education, and to be accurate in their estimate of the cost.

Then, the question is with regard to control. The Government have practically taken into their own hands the whole control under this bill. I wish it had been delegated to local bodies and that the provisions with regard to control had been more liberalised. I hope the select committee will take into consideration these two points. When the local bodies are to find the money required for the scheme, it is but fair that they should have the full power to formulate their rules.

The Honourable the PRESIDENT: Is it necessary to repeat this argument? It has been made by several honourable gentlemen who have spoken before now.

Rao Bahadur S. D. GARUD: I content myself with emphasising that particular point. When Government liabilities are limited with regard to contribution, they might leave the power of making rules to local bodies instead of the Government being troubled in every instance with the necessity of examining all the schemes.

Finally, what we did expect was a preamble which would state, not that it is necessary to provide for the management and control of primary education but that it is intended to provide for the extension of compulsory education in the Bombay Presidency within a certain number of years. The whole country was anxious to see a definite programme of compulsory education to be achieved in the whole of the Presidency within a certain number of years.

The Honourable the PRESIDENT: Has the honourable gentleman considered what the object and nature of a preamble in a bill and an Act are? The preamble is intended merely to state existing facts and is not an enacting clause. What the honourable gentleman wants in the preamble should come in by way of a clause in the enacting portions of the bill.

Rao Bahadur S. D. GARUD: I merely suggest this to Government. I know that the preamble is not part of the legislation and as such not enforcible. I wish merely that the pious wish which was expected of Government had been there, merely to show the object with which Government undertook this particular legislation. Otherwise, if this is going to remain a dead letter as the Patel Act has remained up to now, there would not be much gain. I therefore submit that this particular wish and opinion of the public will be taken into account and carried out by amending the preamble, or incorporated in the bill in any other way that may be necessary, by suitably amending the bill in the select committee. There is no doubt that in some instances, some portions of the country and some castes of the population would not perhaps receive compulsion with enthusiasm, but when we are recommending to Government to introduce an Act to enforce compulsion, it is necessary that that Act shall be enforced in the first instance on castes who have shown no desire to take to voluntary education. For example, if we examine the figures given by the committee which was recently appointed, we find that Brahmins are foremost in taking advantage of the voluntary system of education. The Mahomedans come next, and the backward classes come last. If we are to exempt from the operation of this Act any portion of the community, I would submit that Brahmins should be exempted altogether. Mahomedans in those areas where they have taken advantage of the voluntary system or are showing signs of

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taking advantage of the voluntary system should come in for exemption next. The backward classes should come in for compulsion under this bill first, because they are the communities that most require compulsion, and really it is for their benefit that this bill is being taken up and is being pushed forward. Those communities which are taking advantage of the voluntary system would hardly have needed any such bill at all. Therefore, I think it is fair to those communities that they should be allowed the benefit of the exemption for which provision has been made in this bill. I therefore heartily support the first reading of the bill, and I hope that the discussion in this Council will help the select committee to modify the bill in such a manner as to make it acceptable to the various interests concerned.

The Honourable the PRESIDENT: I only wish to say with reference to what has fallen from the honourable member who has just resumed his seat, that I hope it will be borne in mind by the select committee that it is not competent to the committee to introduce a preamble which does not exist in the bill as introduced, and if the suggestion made as to limiting the period within which compulsion ought to be applied is to be accepted, it ought to come in in the enacting parts of the measure. The preamble is governed by those parts and may be amended in the select committee accordingly.

Mr. B. V. JADHAV: Sir, so many congratulations have been showered upon the honourable member who has introduced this bill that I do not think he requires any from me. We have been waiting and waiting for the introduction of compulsory education for the last forty years. Forty years ago, the Satyashodhaks were foremost in demanding compulsory education, but their cry was a cry in the wilderness. The Government of those days did not recognise the necessity of giving education compulsorily. Then the late Mr. Gokhale.....

The Honourable the PRESIDENT: I have already ruled that this historical survey is not relevant.

Mr. B. V. JADHAV: I bow to your ruling, Sir. I had already skipped over a period of twenty-five years in one sentence of a dozen words, and I would have passed over the remaining fifteen years in another short sentence and thus summed up past history.

The Maratha Educational Conference and other conferences have been crying for compulsory education so long, but Government did not recognise its necessity till last year, when the Honourable Minister, if I mistake not, declared that compulsory education was outside practical politics. I am glad that Government have seen fit to change their opinion in the short period of eighteen months, and they have received encomiums for the introduction of this bill.

A committee was appointed, and the statement of objects and reasons of this bill pompously declares that the object of this bill is to carry out the recommendations of that committee appointed to consider the question of compulsory education. But, Sir, I am very sorry to find that beyond this first sentence of the objects and reasons and beyond the use, two or three times, of the words "compulsory education" in the bill, the majority of the recommendations of the committee have not been accepted. I am very sorry to find that the time limit set up by the committee—and it was an important recommendation of the committee—has not been accepted by the Government. That committee laboriously drew up a scheme, but that scheme has been set aside. The bill before the Council asks local authorities to provide their

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own schemes and submit them for the approval of Government. I do not know how many years will be wasted on account of this provision in the bill and so I cannot say whether compulsory education will be available to the masses of the Deccan, who have been very peremptorily asking for it, for many years to come. So I would insist that some provision ought to be made in the bill for a time limit. When the report of the committee was under the consideration of Government, I had the honour of having a talk with the honourable gentleman who has introduced the bill and I could gather from him that Government were determined to have education made compulsory within the period of ten years, and then a scheme was shown to me which gave what would be the expenditure incurred by Government year by year. From Rs. 1,83,00,000, the present expenditure, in ten years it would rise to Rs. 2,93,00,000—an increase of Rs. 1,10,00,000, and I was under the impression that this bill would carry out the promises that were held forth. But I am sorry to find that the present bill is very disappointing.

The Honourable Dr. R. P. PARANJPYE: Those figures are in the report.

Mr. B. V. JADHAV: They are.

Now, Sir, I come to the second provision in the bill, that is, the machinery provided for bringing in compulsory education. The bill leaves it to the district local boards and the city municipalities, to determine when and to what area they would apply compulsion. That, Sir, will leave the question open as to whether the whole area under the district local boards will come under compulsion or when the city municipalities will take it up. Provision has been made, of course, that the education scheme ought to be submitted within a certain time and, if it is not submitted, Government is going to take the thing up. But, Sir, when you once entrust a thing to a local body, that local body, if it is not willing to take up the matter at once, will find out excuses and ask for time and extensions of time, and years and years may roll on before the scheme comes forward for consideration of Government. At the same time, I want to bring to the notice of this House one salient point. The Local Boards Bill provides for the formation of school boards. The school boards are to be elected by the local boards and one ought to bear in mind that the elections of some local boards have taken place just now this year and some took place last year. So these local boards, according to the new Act, will not be in working order for at least three years and in some places two years. Till then this bill will be hung up and will not come into operation. The members of the local boards elected under the old Act will not be empowered to take up the question. They will not feel they have the mandate of the electorate to levy additional taxation and they will be unwilling to take up the question of taxation and I think three years will be lost before a start can be made. For that purpose, Government have to take up the question of bringing reformed local boards into existence without any loss of time, as was done in the case of the City of Bombay Municipal Bill.

As for the financial clauses, Sir, I think the principle of this bill is really not the principle of introducing compulsion. The real principle ought to be the responsibility of Government for providing education to its subjects, as has been pointed out by my honourable friend from Belgaum. For many years, Sir, the British Government did not recognise the responsibility of educating their own subjects. England left that to the local bodies and the British people themselves were so much advanced that the local bodies took that question up, and in England education is generally held to be within the

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jurisdiction or within the province of the local body. When the Local Boards and the Municipal Acts were introduced into India, legislation was wholly in the hands of the British officers and it was but natural for them to introduce the principles which were followed in England. But now the time has come, when the local legislatures have been democratized, that the right principle, according to our ideas of the responsibility of Government and of the people, ought to be announced and brought into operation. I think, Sir, the British ideal of throwing the whole burden upon the local bodies is quite unsuitable to this country, because this country is far backward in education and in civil ideals. This country has suffered most for want of education and the people as well as the Government are greatly hampered by the illiteracy of the masses. It is a national calamity, Sir, that education is so very backward and it will be to the advantage of the nation as a whole if education is spread broadcast, and therefore it ought to be the duty of Government to make education a question of national importance. Therefore, I say, Sir, that the principle of national responsibility ought to be recognised by Government and therefore no responsibility should be thrown upon the local bodies. The local boards, Sir, are asked to provide for a third part of the expenditure in this bill. I was told that the honourable mover of the bill has given assurances that the sums spent upon education up till now will be forthcoming from Government coffers and that only one-third of the additional expenditure that would be required to make education compulsory in the villages and other places will be expected from the local boards, while two-thirds will be provided by Government. It is not a very generous offer, Sir. Up to this time, nearly seven-eighths or nine-tenths of the expenses on education have been borne by Government and only one-eighth or one-tenth has been left to the local boards. The same proportion of responsibility ought to be taken up by Government because, as I pointed out, it is a national question and it ought not to be left to the choice of the local body. At the same time, there is another difficulty, Sir. The local boards have been given powers under the bill to tax. But, Sir, it will be very difficult for the members of the local boards to pass any taxation for fear of unpopularity. They have been given the choice of adding the one anna cess on the land revenue. It may suffice in certain districts where land revenue is tolerably large. But in poorer districts like Ratnagiri, Kanara and other districts, that one anna cess will not suffice to provide the one-third and the poor men's huts cannot be taxed, and even if they are taxed, the expenses of collecting the revenues from those houses will be so very exorbitant as to make its imposition of no practical use. The local boards, Sir, will be in a very deplorable condition on this account. As I have said, the agriculturists will not be unwilling to pay the additional anna per rupee; but they will rather pay it to Government if they take the responsibility of giving education. It will be more difficult for the members of the local boards to levy that tax. We are not unwilling to bear taxation, Sir, but we think the people will bear it more calmly and resignedly if it is levied by the provincial Government and not by the local boards and therefore members of the local boards will be unwilling to impose unpopular taxes. At the same time, I want to point out an anomaly or rather an injustice. From the figures quoted by my honourable friend the Director of Labour Bureau, we see that Gujarat is very highly educated. Of course, it is not fully educated. Much is desired no doubt in this province of Gujarat, but it is the most educated province. It means that a larger portion of the expenditure on education is now spent in Gujarat. Is that not so ?

The Honourable Dr. R. P. PARANJPYE: Certainly.

Mr. B. V. JADHAV: So, that is doing injustice to other provinces of the Presidency. What I am going to say is that injustice will be done now on this account. A larger portion of the revenue is spent in Gujarat on primary education, and a smaller portion on the Deccan and the Karnatak. Now, according to the scheme of the honourable mover, the sums that have been paid up till now will be continued, and only one-third of the portion that will be required to supplement the educational budget will be levied from the rural districts. That means that from Gujarat a smaller sum will be required to complete their education while from those districts in which education is at a very low ebb and consequently where lesser sums are being spent under the head Education, larger sums will be required, as they will have to be provided with education to a larger extent. (Honourable members: Hear, hear.) That is an injustice and that injustice ought to be removed. I need not quote figures, Sir, because they are not available to me, but it is quite plain that where larger expenditure is incurred now, smaller expenditure will be required and only one-third of that required small expenditure will be levied by the local boards of Gujarat and two-thirds will be provided by Government; while in the Deccan where small expenditure is incurred up till now, a larger amount will be required and one-third of that larger portion will have to be paid by the district local boards, which are poor and which are unable to pay. Is it a punishment, Sir? Does the Honourable Minister want to levy higher taxation on the backward districts of the Deccan and the Karnatak for remaining backward so long, and is he so very lenient to the districts of Gujarat because they are forward? It is just like

"More shall be given unto him that hath,
And from him that hath not, will be taken away what little he hath."

I strongly protest, Sir, against that principle, and I think it will be much better if the financial clauses of the bill are revised. I would therefore request the Honourable Minister to withdraw the present bill and to redraft it on sounder lines.

Then, Sir, I come to the formation and the constitution of the educational boards to be elected by the local boards. The bill says that they shall consist of not less than ten and not more than fifteen members, and that these fifteen members are to include men experienced in education, women and representatives of minorities. I understand at least two may be required from amongst the women.

The Honourable Dr. R. P. PARANJPYE: Plural includes singular.

Mr. B. V. JADHAV: Then there will be experts. I think one expert will suffice.

The Honourable Dr. R. P. PARANJPYE: Possibly.

Mr. B. V. JADHAV: Then there will be representatives of minorities. Which minority, Sir, may I know?

The Honourable Dr. R. P. PARANJPYE: They will be from the different parts of the country according to the nature of the population.

Mr. B. V. JADHAV: It is certainly rather vague. In the district of Satara, Mahomedans will at least require one seat and the depressed classes will require perhaps two according to their proportion in the population. And then, there are about eleven talukas, and they won't get even one seat each and then, what about the representatives of municipalities? So I think this provision limiting the number of the members of the board requires a good

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deal of consideration and a good deal of change if the board is going to be really representative. That point has been sufficiently dealt with by my honourable friend from Satara and I need not waste the time of the House on it. My honourable friend the Director of Labour Bureau has obliged this House by quoting facts and figures. According to him the percentage of education among the Marathas is very low, that is, less than four per cent., and one reason of that is the paucity of teachers from the non-Brahmin classes. And if the recruitment of teachers is to be left to the Brahmin bureaucracy and is to be carried on on the same principles as have been followed hitherto, then good-bye to compulsion and good-bye to the hope of the spread of primary education among the rural classes. It was only yesterday, Sir, that the honourable mover favoured me with facts and figures on one point, namely, last year sixty posts of vernacular teachers were filled by the deputy educational inspector out of which 25 places were given to.....

The Honourable the PRESIDENT: Order, order. How is it relevant to the provisions of this bill? The honourable member will allow me to say that he is now going into administrative matters which do not bear upon the question under debate. The question of the appointments of teachers will open a very wide field for discussion straying away from the Compulsory Education Bill.

Mr. B. V. JADHAV: I am coming to that, Sir.

The Honourable the PRESIDENT: You should come to it at once.

Mr. B. V. JADHAV: I am sorry that I cannot make myself more clear. I wish to point out that if things are to go on in the way they have been going on up to this time, then it will be quite useless.

The Honourable the PRESIDENT: I put it to the honourable member, is that relevant? It is outside the question before the House.

Mr. B. V. JADHAV: I bow to your ruling, Sir, and simply say that great injustice has been done to our community.

The Honourable the PRESIDENT: If you say that the school boards and all these institutions which are intended to manage this question of compulsory education are so constituted that teachers of non-Brahmin classes will have no fair field and that therefore the principle of compulsion will be illusory in practice, if you put your grievance that way, perhaps it may be relevant.

Mr. B. V. JADHAV: Thank you, Sir, for your suggestion. It is the intention of Government to give compulsory education to all classes, but I have found that the masses have not the chance of getting education except at the hands of teachers recruited from among them. As long as school boards started by the municipalities and the local boards have not a strong majority of non-Brahmins and backward communities and as long as the teachers recruited are not from those backward communities, so long, Sir, any amount of compulsory education or any other scheme will not be beneficial to the masses. There are instances.....

The Honourable the PRESIDENT: You need not illustrate that point. Please pass on to some other points if you will kindly listen to me. In the way you have put it already, I think sufficient emphasis has been placed upon the point.

Mr. B. V. JADHAV: To recapitulate.....

The Honourable the PRESIDENT: No recapitulation, please.

Mr. B. V. JADHAV: To sum up.....

The Honourable the PRESIDENT: There is no need of summing up either and repeating. Please pass on to some other points.

Mr. B. V. JADHAV: The first thing is that Government ought to make compulsion available within a certain number of years. Government have failed to do that in this bill. Another thing is the formation of the school board: that is very defective. The third, the apportionment of financial responsibility, is the worst of all and it requires a thorough change.

The Honourable the PRESIDENT: You mean that education should be nationalised?

Mr. B. V. JADHAV: The paramount question is nationalisation of education. Therefore, I would ask Government to withdraw this bill and bring in a better bill. Government ought to shoulder the whole responsibility.

The Honourable the PESIDENT: Now, you are going back to a point which you have already exhausted.

Mr. B. V. JADHAV: I want to bring in the point about the administrative powers that are going to be given to the local boards. The argument might be raised that the local boards are now empowered to elect the school board, and that if they want to enjoy higher powers they ought to be saddled with greater responsibilities to provide funds. I say, Sir, that local bodies ought to be left to deal with matters of local concern only. Education ought not to be looked upon as a matter of purely local concern and Government should take up the management from the local bodies and make education national.

With these words I call upon the Honourable Minister for Education to withdraw the bill and to bring in a fresh one.

Mr. S. K. BOLE (Bombay City, North): Sir, I want to be very brief. I shall confine myself to the three principles introduced in this bill, namely, the principle of compulsion, the principle of management and the principle of finance.

Taking the principle of compulsion first, you may be aware, Sir, that last year in this very House when the Honourable Minister wanted to refer the question to a committee, I pointed out that it was very late in the day to appoint a committee like that.

The Honourable the PRESIDENT: You are not dealing with the bill.

Mr. S. K. BOLE: I am criticising the report of the committee.

The Honourable the PRESIDENT: You may criticise the report, but not go into the history of it. You may criticise the report, but even that criticism must bear upon the provisions of the bill.

Mr. S. K. BOLE: I submit, Sir, that compulsion is necessary in the case of the depressed classes and the backward classes, as voluntary efforts have proved futile. The report of the committee says on page 12:

"Among these witnesses from the Deccan, Konkan and Karnatak, a large majority favoured the introduction of compulsion and said that they and their friends were prepared for the infliction of penalties if they did not send their children to school."

Further on:

"On the whole it appears that there is a genuine desire for education among the masses themselves in the Deccan, Konkan and Karnatak and that the movement in favour of compulsion is not confined to the leaders of the communities. We might even go further and say that among the Marathas and some other classes there seems to be a real demand for compulsory education, which they look upon as essential to their social and political progress."

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The social and political progress not only of this class, but also of the whole country, has been hindered by its backwardness in education. My honourable friend the Director of the Labour Office has also said that, unless there is compulsion in the case of these classes, there will be no improvement among them. It will be seen from the report of the Industrial Disputes Committee that the social and welfare workers in Bombay and elsewhere have also said the same thing. As regards the note of caution sounded by some honourable members, the report makes some appropriate remarks:

"On the other hand,....."

The Honourable the PRESIDENT: The report is in the hands of every member.

Mr. S. K. BOLE: I want to illustrate my remarks. I am only following the precedent of some of my honourable friends who have quoted from the report.

The Honourable the PRESIDENT: I do not want to come in your way, but the House would like to have your views.

Mr. S. K. BOLE: The report states:

"On the other hand, a few cultivators from these areas who appeared before us vehemently protested against any measure of compulsory education, giving as a reason their poverty and the need of their children's earnings. Their difficulties can, to some extent, be met by fixing the school hours and vacations to suit the needs of agriculture."

I would go even further and say that the curriculum of these schools might be so arranged as to suit their vocations.

The Honourable the PRESIDENT: That is a matter of administrative detail, which cannot be gone into when we are dealing with principles of the legislation. The question of curriculum is one of administration and not legislation in this bill, unless there is some principle of the bill involved in it.

Mr. S. K. BOLE: Then, as regards the depressed classes, it has been pointed out in the report that there is keen desire among them that the principle of compulsion should be introduced. I am glad that the Honourable Minister, who had some misgivings when he appointed the committee, is now satisfied and has accepted the principle of compulsion in the bill. Now, as regards the cultivators' children and the children of the labouring classes, I would say that they should not be made the earning machines of their parents. I submit that no exception should be made in the case of the depressed classes and the labouring classes. Exceptions may be made in the case of the higher classes: I would go even further and say that in the case of municipal towns fees should be extracted from the higher classes.

I think it is the duty of the State to provide adequate provision for compulsory education. I also think that the State should also provide the necessary funds. As for management and machinery, I have no objection to their assigning the management to the local boards and municipalities or the new school boards provided all these bodies are well represented by all the major and minor communities. As regards funds, I think if funds are not provided, the bill will remain a dead letter much the same as the Patel Act. I submit, therefore, Sir, that the State should provide the necessary funds from the provincial revenues, and unless that is done no progress will be made. Local bodies and Government will fight among themselves as to the share of their contribution, and the masses who are in great need of education will go without education. They would be like the children in a labourer's family where the father and the mother fight over a certain cause and the children have to go without food. Under these circumstances, I

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submit that the State should make adequate provision for the necessary funds from the provincial revenues. The State has been spending large sums of money on education, but those who have benefited so far are the higher classes whose percentage of education is 60 per cent., 70 per cent. and 80 per cent. So provision should be made for further expenditure to be incurred on the education of the backward classes. Then we can curtail expenditure a good deal by recruiting teachers on low salaries. I think any number of teachers will be forthcoming from the non-Brahmin communities even if we curtail the salaries. If Government will be pleased to accept my suggestions, they will be able to do with less expenditure than what they have been incurring up till now.

I do not know whether I should support the bill or ask the Honourable Minister to withdraw it and to bring in a new bill. But I have no objection to this bill being passed, provided amendments are made in the bill according to my suggestions. With these words I resume my seat.

Mr. K. B. NIMBALKAR (Nasik District): Mr. President, I regret I cannot associate myself with some of the speakers who spoke before me in congratulating the Honourable the Minister for Education for introducing the bill for compulsory primary education in the manner and shape in which it has been done.

It is an admitted fact that the Government have taken upon themselves the duty of educating the masses. It is not a new fact, but as far back as 1854, this policy was enunciated. This was approved by the commission appointed in the time of Lord Ripon's Government in 1882, and to-day we see the Government taking upon themselves that duty of educating the masses by compulsion. But, at the same time, if we look to the arrangement made with regard to finance, it is disappointing. By the use of the word, 'shall' in clause 11, the Government have taken upon themselves to meet two-thirds of the expenditure, but, even then Sir, Government have not taken upon themselves the responsibility to meet two-thirds proportion of the actual cost. The Government have only undertaken the responsibility to meet two-thirds of the estimated cost when the scheme is sent to Government for approval. It is our daily experience that estimates, however accurate, will have variation later on when the scheme is actually put into practice, and the local body, if the actual cost exceeds the estimated cost, will have to pay more than its one-third share of its expenditure. The bill is based on the recommendation of the committee that was appointed for the purpose. I was one of those who had raised objection against the composition of the committee, because some of the members of the committee themselves were against compulsion. To-day even the same opinion is heard from at least some members. Yesterday, the Council was asked to refer to appendix B. to show that the masses were really not for compulsion. It was said:

"Three simple questions were sent to different Collectors, and they were asked to take the answers to those three simple questions."

My contention is that it cannot be taken as the opinion of the masses. According to the report, answers to those three simple questions were got among others from 70 Chambhars, 107 Mahars, 78 Mangs, and 3 Marathas—Marathas 3 only. After getting the answers, it is now stated that the majority of the masses are against compulsion. Certainly, if Marathas and other similar communities who are backward in education had been examined, the result would have been different. From the answers received, and referred

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to in the report, it cannot be said that the masses are against compulsion. The witnesses were taken in greater number from such classes as are likely to give a reply in the negative. Taking this as an instance it is argued that the masses in certain districts are not in favour of compulsion, and that the members representing the different constituencies here are expressing their individual opinions and not the opinions of their constituencies. Certainly this inference is not true. The backward communities, especially in the Deccan, are for compulsion. Not only that, but they are prepared to pay taxes up to a certain limit. Up till now, the local boards were getting much more than two-thirds of the expenditure by way of grant from Government. The Honourable Minister says that even after you introduce compulsion you will get the same proportion for the present staff and the new proportion to the increased expenditure. I do not know whether all the members of the committee were of this opinion. I think that this ratio is based on the one that once existed in England ; but it is not realised that there is no comparison between England and India. To compare India, purely an agricultural country, with England, a prosperous and industrial country, is no comparison at all. The local bodies there may be in a position to meet even more than one-third of the expenditure. So, if the Government want to take upon themselves the responsibility of educating the masses and introduce compulsion for that purpose, I wish to impress upon them the fact that there is no use merely passing an enactment, but they should see that proper and adequate provision is made for meeting the charges. What I mean is that they should bear the same proportion as they were hitherto doing with regard to local bodies. Even after that, the Government have taken only a little share. In the case of municipalities which will be transferred to the local bodies, I think these local bodies will be expected to spend one-third, while the municipalities which will be transferred to these local bodies will be asked to contribute their own share, that is half, and Government will have to pay only one-sixth. So, as regards finance, instead of coming forward with liberal hands, Government has taken back, and only introduced the principle of compulsion. The effect of this will be that, though the masses are clamouring for compulsion, the burden that will be thrown upon them will be so much, that taking into consideration, as the honourable member from Thana said, the opinion outside this House which cannot be ignored and which may take advantage of this fact of extra taxation, it might lead to disappointment. It is an admitted fact that everybody wants compulsory education, but in order to make it practicable, there must be a sufficient provision made by Government.

As regards other points, I do not think that I should deal with them, because they have already been discussed by the previous speakers. With these words, I resume my seat.

Mr. S. P. LIGADE (Sholapur District) (Addressed the House in Marathi) : Mr. President, as regards the usefulness of this bill, there is little to be said, but as regards its construction, I must express my dissatisfaction on behalf of the agriculturists. The agriculturists have undergone many hardships so far, they have paid the local fund taxes, but as far as education among them is concerned, there will not be one graduate from the backward class to a thousand from the advanced communities. The reason for this is quite clear. The educated classes, who have been in charge of the administrative machinery of education, have done nothing for the benefit of the agriculturists. On account of these difficulties, although they have been paying the taxes, the

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agriculturists have not been able to take advantage of education. Now-a-days, there has arisen that feeling among the agriculturists that, unless they have educated men who are able to plead their cause, their interests will not advance, and in order to achieve this, they have come to realise that compulsion is necessary for them. In 1909 when I was a member of the district local board, I brought forward a resolution that compulsion should be introduced. In the year 1911, the late Mr. Gokhale brought forward. .....

The Honourable the PRESIDENT : Past history has no concern with the present bill. You may say anything that you have got to say with regard to the bill itself.

Mr. S. P. LIGADE : The construction of this bill ought to be such that the agriculturists will benefit by it. The bill provides for compulsion in local boards. Experience tells us that there will be two kinds of members on them. If an uneducated member is elected, he does not know what should be done for his constituents. If the member is educated, he neglects the uneducated, and devotes himself entirely to the cause of the already educated. If this is the case in the smaller municipalities, one can very well imagine how the interests of the backward classes will be looked after in the bigger local boards. I trust the Honourable Minister will take this fact into consideration.

As I have already said, there are very few graduates among the agriculturists, and although they have been paying the local fund cess and even when that cess is doubled, they will not be benefited to the same extent. On the other hand, there is every chance that they may not remain contented. One very often sees Government introducing beneficent measures for the good of the people even against the protests of the people. In the matter of education also the same line of policy should be adopted. I do not see why Government should not bear the whole of the expenses, and unless Government undertakes the duty, nothing can be done for the good of the agriculturists. If the present awakening among the agriculturists is not taken advantage of by Government, and they are not provided with free and compulsory education, the agriculturists will think that Government is doing nothing for them, but everything for the educated classes. Therefore, I think that the educated classes should be taxed, and Government should undertake the duty of educating those who have remained uneducated so far. I can assure Government that the readiness to accept compulsion is there. If the agriculturists are educated, good use can be made of their knowledge, and it will not be possible for interested parties to mislead them. I submit, Sir, that compulsion in primary education is absolutely necessary in the best interests of the country and people everywhere are quite anxious to have it. They are also quite prepared to tax themselves, to a certain extent, if that is found necessary. Even the poor ignorant people, as a whole, do feel that they ought to be able to read and write, as they realise the advantages of education by observing the few who are educated. I hope, however, that having regard to the views expressed by several of my honourable friends and also by myself on this bill, as it contains several defects, that the Honourable Minister will consider the advisability of withdrawing this bill and bringing forward a more satisfactory bill in its place. In any case, I would request the Minister to give his careful consideration to all the points that have been made during this debate, when the bill is considered in the select committee.

The Honourable the PRESIDENT: I think I have called upon all the honourable members representing the backward classes, so far as I know. Is there any other honourable member for the backward classes who wishes to address?

Rao Saheb P. G. HALKATTI (Bijapur District): I wish to speak, Sir, on this bill. In supporting this bill, I wish to make only one remark. According to clause 8 of the bill, "A local authority may by resolution declare its intention to provide compulsory elementary education in the whole or any part of the area subject to its jurisdiction." According to clause 9, a local authority has to submit its proposals to the Government in the form of a scheme. So Government has given power to the local authority to frame its own scheme. I fear that by this method there will be as many schemes as there are districts as regards compulsory education. One district may have one kind of scheme for compulsion, while another district may have another scheme. Hence I fear that by giving this authority to the local boards wholesale, there will be a number of schemes coming forward from the district local boards which destroys unity of educational development in the Presidency. The details of the scheme are referred to in clause 9. Looking to this clause, the subjects therein mentioned are certainly very complicated. For instance, sub-clause (*d*) requires a local board to form a schedule of existing and proposed teaching, inspecting and supervising staff. Then, under the next sub-clause (*e*), the manner in which provision will be made for the compulsory elementary education in the vernaculars of the children has to be mentioned. Well, I doubt, Sir, whether all these functions can be efficiently performed by the present district local boards, because these require very intricate knowledge of the working of schools. They require specialists in education. I doubt whether the local boards and the municipalities, as they are constituted now, will be able to formulate an efficient scheme of compulsory education. Hence my submission is that this function should not have been put on the local authorities but on the educationists who are specialists in this matter. Again, the local authorities while estimating the cost have to consider the question of pay of teachers, inspectors and supervising staff. This is also a difficult task. So, without having a definite idea as to all these matters, it is impossible for these authorities to prepare a workable scheme. Under the present circumstances, there is absolutely no basis for the local boards or the municipalities to form a scheme in the proper sense of the term. The proportion of two-thirds and one-third as regards expenditure has been laid down in the bill under clause 11, but on account of the above indefiniteness we cannot determine whether we shall have to provide in the bill two-thirds, three-fourths or the whole of the costs to be met by the local authorities. So I think Government should have placed a comprehensive scheme of compulsory education, with all its details with respect to expenditure and everything, and then we would have been in a position to understand whether this bill of compulsory education could have been brought into effect. Instead of doing that, Government have delegated all these matters to the local boards. I think, from the constitution, nature and the purse of the local boards and the municipalities, they will be at a loss to know how to form a workable scheme which can be effective. So I think Government ought to lay before the Council, even if this bill is passed, within a short time a complete workable scheme for compulsory education, mentioning in detail the curriculum, pay of teachers

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and everything and then only this bill can be brought into effect. This is a defect in the bill and this I point out to the Government. But as I am in agreement with the general principles of the bill, I support it.

Mr. R. G. SALGAR (Sholapur City) (Addressed the House in Marathi): Mr. President, I heartily support this bill No. XVII of 1922 which has been introduced by the Honourable Minister. As regards the defects of this bill—and there is no doubt there are many—as several honourable members have dilated upon them at length I do not wish to take up the time of the Council in going over the same ground. I have only a few suggestions to make.

In the first place, I submit that primary education should be made compulsory both in the case of boys as well as girls and it is not a good policy to hold this compulsory education back even from girls. If our women are well educated, they will be a great help to us in connection with domestic matters, such as home sanitation, looking after the health of the children, etc. It is, therefore, absolutely necessary to make primary education compulsory both in the case of boys as well as girls. Now, coming to the report of the Primary Education Committee which was appointed by the Honourable Minister, as the chairman of that committee was a gentleman experienced in all these matters, it would have been a great help to us if the chairman had given us his own views with regard to all these matters.

Then, the first suggestion that I want to make is this that Government should take charge even of all the unaided schools. At present the aided schools receive a grant-in-aid of Rs. 3-3-0, while the unaided schools get no grant at all. Unless Government takes under its control even the unaided schools, the Compulsory Education Act won't be a success, because some parents might say that they are sending their children to these unaided schools while Government having no control over these unaided schools, it won't be possible for them to find out whether the children are attending these schools or not.

As regards the increase of taxation for the sake of increasing the grants to primary schools, my suggestion is that Government should make some retrenchment in the non-voted departments. There should also be a tax on the race-course and entertainments. Then again, the provincial Government should press the imperial Government to give them their full share in income-tax. The local fund cess should also be doubled. But besides these, there should be no increase in taxation.

Then, coming to the point as regards the areas in which primary education should be made compulsory, I submit, although the report of the committee suggests that it should be made compulsory first in municipal areas, that there is not so much need of doing it in the municipal areas, as in all the municipal areas which are city areas you will find most of the children attending schools, and therefore the real need for compulsion is in the rural areas. We know that there are nearly 10,000 villages which have no schools and in which if schools are opened, they would go on very well, and it is these rural areas that need this compulsion in the first place. Then, as regards the school boards which are proposed to be created, I must say they are quite unnecessary. Our present school boards of municipalities are really doing very useful work as per reports till now, and I do not see any necessity of having separate and independent school boards as proposed in this bill. With these remarks I resume my seat.

Mr. P. N. ADHAV (Satara District): Mr. President, the bill before us as presented by the Honourable Minister in charge is for compulsory education and primary education. Being a representative of the backward Maratha community, I am concerned more with compulsory education, and we are to see whether the compulsory education falls within practical politics. I take the bill as it stands and, as it is presented to this House, it requires some modification. The compulsion, as stated, is more on a voluntary basis than what it ought to be. Besides what we find from our own experience is that, if the bill is accepted in the present form, we will find that it will be inoperative. For instance we started compulsory education in the Satara Municipality nearly two years ago. Now, before starting compulsory education in our city we had to send our proposal and a detailed statement of the funds that we had, and all those details which are more or less required by the present bill. Then Government asked us what taxes we were going to levy to meet the extra charge. We then proposed certain taxes. Government said they did not fall under the educational requirements and that they must be transferred to some other appropriate heads. Then Government asked us to bring up our proposals for further taxation and then they said they would consider the proposal. So in this way we lost about two or three years. After that, compulsory education was brought into force in the city. And then we were given to understand if our resources fail when we have taxed to our utmost limit Government may help us by the two-thirds grant. But we are asking for that much grant often and often, and our demand has so far not been complied with. What I am afraid of is that the present bill is more on a voluntary basis. Whenever Government finds that the local authorities are required to be provided with funds and Government is not in a position to do it, they can always say that they are going to reject the proposal and so it will be a long time before our expectations can be realized. Now yesterday the Honourable Minister in charge of Education said that Government has increased this expenditure on primary education to a certain figure and if I remember aright, it is 52 per cent. and it is a much higher figure than that of any other province in India. I would point out that the expenditure has really increased during the last two or three years.

If we take the figures for 1920-21, we find that on primary education Government spent Rs. 73,91,000 and in 1922-23 they have budgetted for Rs. 1,09,00,000. That shows that Government have come forward with a higher grant, but are the masses benefited by it? I think not, because all the increase more or less has gone to support the reorganisation schemes that have been brought into force and has been used for the provision of increase of pay of teachers, and there has been practically no increase in the students that are under instruction. So, when the question of funds is considered, the powers that are given to the local boards are limited. The powers are so few and practically the largest lump, the largest lot that we are going to expect is from the agriculturists, and when we consider that we have got in the Deccan about three famines every ten years, we shall always have to give some remission in collection of the cesses and so bearing this in mind, there will be always some remission and suspension of revenue and whenever schemes come from special areas for introduction of compulsory education, there will be some hitch or other placed and no compulsory education can be brought into force.

Again, if you look to the present state of things, if the local boards are given a free hand, if they are allowed to entertain teachers, efficient and qualified, to carry on these duties of teachers in village schools, they will probably be

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able to find a large number of men coming forward to serve on a smaller pay, but the attitude taken up by the Government at present stands in the way. If I come back to the Satara Municipality, we find that we are not able to support the pay of the teaching staff, which according to the new scheme will be going from Rs. 20,000 to Rs. 32,000, and on account of that if Government is not coming forward with a helping hand, probably the Satara Municipality shall have to withdraw its scheme. So if the local boards are given a free hand to entertain their staff—I do not mean the pay of the present staff should be reduced, they must get the pay sanctioned for them—but when they entertain any new staff, they must entertain them on a much smaller pay if those men are willing to serve on that pay and.....

The Honourable Dr. R. P. PARANJPYE: We are going to look into the question.

Mr. P. N. ADHAV: In that way we will be able to solve the difficulty a little, but the resources of the local boards—the local fund cess which is mostly to be derived from the agriculturists—will be available and Government has already ordered and empowered local boards to levy toll taxes and other taxes such as water cess and so on, but all these will not contribute any large sums. So I think as at present Government contributes about 85 per cent. of the total expenditure on primary education, they should continue this grant and *plus* this, whenever there is need, they must help local boards with the necessary grants.

My honourable friend from Ahmednagar yesterday gave some reference from the appendix in the Education Committee's Report to show that the masses were not ready, or it was against their wish to introduce compulsory education. I think he is wrongly impressed by the figures that he has read or gone through in the schedule. If he knows his district properly and if he knows the Marathas properly—I can assure this House that I have been attending several Maratha Educational Conferences and we have been sending Government resolutions requesting them to introduce free and compulsory primary education in the mofussil for the last ten or fifteen years. This is quite sufficient to show that before this bill was conceived or contemplated we had the idea, the Marathas in general from all districts had the idea, to accommodate and adapt themselves with free and compulsory education. So there should be no misunderstanding, when the Government has come forward with a bill for free and compulsory education, that the Marathas are in any way opposed to this idea. I therefore think that if the bill is brought forward in a modified form so as to suit the financial circumstances the Marathas will be all ready to take advantage of this bill and I therefore support the first reading of this bill.

Mr. DIPCHAND T. OJHA (Karachi City): Mr. President, I am in favour of the first reading of the bill with certain modifications and alterations. Looking to the importance of the city of Karachi which I represent in this Council, I should rather like to confine my remarks to the wants and requirements of that city only. I think some of my honourable colleagues in this House may be thinking in their minds that by the introduction of compulsion under this bill we shall be flying from the frying pan into the fire. I find that the bill does embody certain principles which would lead to the education of the masses to a great extent where it is absolutely necessary. I note from the speeches of my honourable friends which have been delivered since yesterday or the day before, that there seems to be a fight between Brahmins and

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non-Brahmins in the Presidency proper, but I may say, Sir, with a good deal of pleasure that in Sind such a fight is absolutely wanting. We in Sind have got backward classes as well and yet the feeling between the two classes is so cordial and pleasant that when any question of public importance arises, we join hands and do whatever is possible. I say, Sir, that in Sind the feelings between the two communities are so cordial and pleasing (which I say is wanting in the Presidency proper).

Sir, Karachi ought to be placed in a category quite different from that of the local boards and municipalities. Karachi—I do not know whether honourable members are aware—has been seeking for a separate Municipal Act for itself. I heard that the bill was ready and was going to be sent to the municipality for any remarks that it may have to offer. Sir, Karachi is a cosmopolitan place just as Bombay. The city of Karachi contains people of different classes and creeds, and people who speak different languages, such as Urdu, Marathi, Gujarati, Sindhi, Hindi, English and Makrani as well. We get people from Baluchistan and the frontier as well. Those that have seen Karachi will, of course, know that in every quarter in the Karachi City there are different castes and creeds of people living. Now, if compulsory education is introduced into the city of Karachi, the Karachi municipality will be obliged to open schools of different denominations in one and the same locality or quarter, with the result that a good deal of additional expenditure will be thrown on the municipality of Karachi. Now, the Karachi municipality is trying its best to promote education within its limits and is doing its best to open schools in different parts of the city, but so far as the Mahomedan community is concerned, the Karachi municipality have to face some kind of difficulty on account of the existence in the suburbs of some Mahomedans being opposed to compulsory education. But the greatest difficulty is with regard to girls. I think most of the members of the Council must be knowing that Sind is a *purda nashin* province, and that there is a good deal of reluctance on the part of the Mahomedan population to send their girls to public schools. The municipality has opened girls schools and those girls schools are strictly under *purda*. The difficulty is to get ingress into the schools to see how far education is properly given. The Karachi municipality is doing its best to give education to girls, including girls of the Mahomedan community. But if compulsion is introduced just now, I am afraid so far as the Mahomedan community is concerned the municipality will have to spend a large sum of money to afford facilities to the girls to go to the schools. I therefore submit that so far as the financial aspect of the question is concerned, the Karachi municipality ought not to be placed on the same level as district municipalities; in other words, the Karachi municipality should not be allowed only one-half of the expenditure as in the case of the district municipalities. The Karachi municipality has been getting one-half of the expenditure already, but it has been finding it difficult to make two ends meet even with this one-half.

The Honourable the PRESIDENT: May I put it to the Honourable member whether this is a point for the first reading—that a particular municipality in respect of a particular sect or section of the community should be exempted and saved from the burden of expenditure—when it is entirely a question of administration provided for by some clause of the bill? Is it not a question of detail?

Mr. DIPCHAND T. OJHA: My suggestion is that compulsory education should not be introduced in the city of Karachi as is suggested in the bill.

The Honourable the PRESIDENT: I quite see your point; but with reference to it, clause 23 says:

"The Government may by notification in the *Bombay Governmnet Gazette* exempt any particular class or community in any area of compulsion or part thereof from the operation of this Act."

The municipality or the local board may say that they are not prepared to introduce compulsion and Government can exempt them. I have nothing to do with the point of view you are pressing, and which you are entitled to present to the Council, provided it is relevant to the debate upon the first reading of this bill. All I say is that it is not relevant.

Mr. DIPCHAND T. OJHA: That is not my main point. I say again, Sir, that Karachi has been already over-taxed and it will not be possible for the people of Karachi to contribute much more towards the additional expenditure for the introduction of compulsory education into the limits of Karachi. As I submitted to you the other day, Sir, the rules recently sanctioned by the Government under the Land Revenue Code revising the ground rent have been.....

The Honourable the PRESIDENT: This is a point not affecting the principle of the bill. It affects only a particular city and is really a legitimate point for the select committee and the second reading.

Mr. DIPCHAND T. OJHA: I am discussing this point, Sir, particularly for the information of the select committee.

The Honourable the PRESIDENT: I have given sufficient latitude. The honourable member will oblige me by coming to the principle of the bill. I think he has said enough on the point that Karachi ought to be treated with indulgence.

Mr. DIPCHAND T. OJHA: Will it be relevant if I discuss the question of the constitution of the board?

The Honourable the PRESIDENT: Certainly.

Mr. DIPCHAND T. OJHA: So far as the constitution of the school board is concerned, I am of opinion that this innovation should not be introduced, so far as the city of Karachi is concerned. I submit that the Karachi Municipality does not require a separate school board. The Karachi Municipality has been looking after its education very well.

The Honourable the PRESIDENT: The honourable member puts the point in such a manner that it is difficult for me to say that it is relevant to the principle of the bill. If the point is that the constitution of the school board is objectionable because it will affect several municipalities prejudicially and Karachi is cited only as an instance, then the main principle comes first and the case of Karachi comes in as a mere illustration. But that is not how it is put by the honourable member.

Mr. DIPCHAND T. OJHA: What I beg to submit is this: so far as the constitution of school board is concerned, every municipality is going to be affected by it, and Karachi municipality also will be affected by it. In Karachi we have our own school board, which has been doing its work very well. The Honourable the Minister for Education has more than once remarked that Karachi has been managing its education very satisfactorily.

(The Honourable the President at this stage withdrew and the Deputy President occupied the Chair.)

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So far as the constitution of the school board is concerned, the Karachi municipality should have the right of electing its own school board, as it has been done hitherto. I said before, and I shall repeat it again, that if the school board is independent of the municipality, the result will be that the municipality will find it hard to meet the requirements of the school board.

As regards the control over school boards, I am told that the municipalities are not to lay down what powers the school board should enjoy, and what powers the municipality should have so far as education is concerned. I submit, Sir, that the rules framed under any enactment ought to be subjected to the scrutiny and approval of the Council. The reason why we should be consulted is this: we are now living in reformed Provinces where the Government is working through a transitory stage with the consent and co-operation of the Government to a final stage of the government of the people, by the people, for the people. I submit, Sir, that this spirit of the reforms should not be forgotten when we begin to consider the policy whether or not this Council should have any right to be consulted so far as the rule-making power of Government is concerned. I submit that the select committee will bear in mind that Karachi is a cosmopolitan city, and next to Bombay in importance, and as such it should not be made to suffer on account of this bill so far as the financial aspect of the question is concerned.

Rao Saheb D. P. DESAI (Kaira District): Sir, after so many speakers who have given their opinion on this bill, I do not think that it is necessary for me to dwell upon the details of the bill at length. However I wish to refer to one or two points that have been touched upon by some honourable members. My honourable nominated friend from Satara (Mr. B. V. Jadhav) stated that the Deccan got less contribution from Government for education than Gujarat. This statement is incorrect, for contrary is the case and if the honourable member will look to the report on the administration of the local boards he will find that though the local cess for Northern Division comes to Rs. 6,51,450, Government grant for education to local boards of that Division comes to Rs. 14,77,000, while the local rate for Central Division is Rs. 5,53,754, and Government grant Rs. 19 lakhs. In Southern Division also the local rate is 6,53,000, and the grant about 17 lakhs. It will appear therefore that Gujarat gets much less than its due.

Another point which my honourable friend from Ahmednagar referred to was that Gujarat was not particular about compulsory primary education. I do not think that it is the deliberate opinion of the people of Gujarat. Whatever might be the circumstances there, under, which the witnesses may have given their views, Gujarat members are quite prepared for any scheme of compulsory education. Of course, from financial grounds, it is evident that Gujarat is over-taxed, and in order to carry out any scheme of compulsory education it may not be prepared through sheer inability; but the people there do not lack a desire at least for expansion of education.

(The Honourable the President at this stage resumed the Chair.)

Again, one of the reasons why Gujarat is opposed to compulsory education programme may be that they do not like the present methods of education. The point was touched upon by the honourable member, the Director of Public Instruction, who said that there was a lot to be said against the present method of education .....

The Honourable the PRESIDENT: I think I stopped the honourable member, the Director of Public Instruction, when he was going into that, and there the matter ended. There is no use referring to a matter which has been ruled out of order.

Rao Saheb D. P. DESAI: I shall then leave it there. But I wish to say that might be one of the reasons why witnesses in Gujarat thought that the introduction of this type of compulsory education would not be to the benefit of their country.

If anybody having experience in Gujarat matters just asks any gentleman there why he is not sending his children to school, the reply will be "What is there to be learnt at school? The boys will learn something better at home". From that, the natural deduction that can be made is that education has not been made attractive by the educational authorities.....

The Honourable the PRESIDENT: The honourable member is now branching off into irrelevant points, because in the first place we are not concerned with the character of the education. The question is whether education should be compulsory and whether it should be free. Secondly, if that is the ground upon which the witnesses came to the committee and said they did not want compulsion, instead of answering the point, you are strengthening it. However, I am not concerned with that. I hope the honourable member will concern himself with the relevant points.

Rao Saheb D. P. DESAI: They must have some prejudice in Gujarat. What I want to say is that the Gujarat people are prejudiced against the present system of education, and if that system.....

The Honourable the PRESIDENT: Do you mean that the people in Gujarat are not against compulsion as such, but they are against compulsion sought to be introduced now by the British Government, because of certain causes, such as the unsatisfactory character of the education that Government imparts and so on?

Rao Saheb D. P. DESAI: Yes, Sir.

The Honourable the PRESIDENT: Then you are opposed to the bill. But we are not discussing now the British policy and quality of education in India. If you confine yourself to the relevant points of the bill, that is all that is in order.

Rao Saheb D. P. DESAI: Now, Sir, regarding the bill itself, I rather think that those districts which are not likely to have compulsion introduced in them would find it reactionary, reactionary in this respect that the normal progress as outlined by the Honourable the Leader of the House from his seat as the Education Member of the past Council, is abandoned by the present Minister in this bill. In the case of my own district, I should think we were going at a normal rate of progress, but after the introduction of this bill, all our progress will be checked, unless of course my district is taxed further, which we are not in a position to bear. We shall have to be satisfied with the Rs. 4,50,000 grant now being given by Government. I think therefore that it is reactionary as it does not take into account and holds out no hopes or promises to all those districts which want to have a normal progress in primary education.

The Honourable Dr. R. P. PARANJPYE: You don't want to pay for it and still you want to have it.

Rao Saheb D. P. DESAI: I refer to the promise of the Honourable the Leader of the House, who was the Education Member of the Government under the old Council. There was no question of fresh taxation then. He stated that the rate of progress would be that all those villages having a population of 1,000 would be provided with schools in so many years, then those having 500 souls and so on. If my memory is correct, I think he made a speech in which he said that within a very short time Government were going to undertake the educational programme on a very large scale and that on a liberal scale, and the results of that policy have been felt in the districts. In my own district the progress has been from about Rs. 2,00,000 grant to Rs. 4,50,000 Government grant in a short period. That progress, I am afraid, will be stopped if the bill in its present form is passed. So, some hope should be held out to those people who do not desire compulsion but expansion.

As regards other matters, my honourable friend from Satara has so elaborately stated them that I do not intend to make any further remarks on them, except this that the jumbling together of rural areas and urban areas under one local authority would perhaps come in the way of good progress, because we do not want the same curricula for urban and rural areas; these latter require a rural setting.....

The Honourable the PRESIDENT: That is a matter of detail and may be left for the select committee and at the second reading in this House.

Rao Saheb D. P. DESAI: With these remarks, I support the first reading of the bill.

Rao Saheb HARILAL D. DESAI (Ahmedabad City): Mr. President, I accept the principle of compulsion underlying this bill, and I support the first reading in so far as it offers to the House, at the further stage when the select committee may be appointed, a basis for discussion. The bill, however, proposes certain machinery for the purpose of carrying out the provisions of the bill, and in regard thereto I feel that the arrangement proposed is not what it ought to be. The bill proposes to establish school boards in the place of the existing local educational authorities. In the case of municipalities, district and city, the Act provides, under section 28, for school committees and the Local Boards Bill provides a school board also under it. We have, under the present Local Boards Act, so far as the local board is paymaster and contributes one-third of the local cess, a local educational authority, though the powers of management are limited; so that, at present, that is the position. Now, however, all the existing local educational authorities are, under the provisions of the bill, to have their powers transferred to school boards which may be created. Let us see what the movement in this direction in England is. The movement there is that the school boards which were established by the Education Act of 1870 were abolished by the Education Act of 1902, and that arrangement was reaffirmed by the Education Act of 1918 as well as by the Education Act of 1921, and the county councils, county boroughs and boroughs were all declared to be local educational authorities. I feel that while the moverment there is from school boards to local educational authorities, this bill proposes an arrangement which is rather retrograde. It proposes to take away powers from existing local educational authorities and to vest them in school boards which are to be constituted.

The Honourable Dr. R. P. PARANJPYE: Were the school boards in England absolutely independent? These school boards here are not absolutely independent.

Rao Saheb HARILAL D. DESAI: In England the school boards, between the years 1870 and 1902, were independent, but, by the Act of 1902 and the subsequent Acts, the local educational authorities have been empowered to elect educational committees and to delegate their powers to them, and here the constitution of the school board appears to be such as if they were to be independent, and in certain cases they will be independent altogether. At least in the Local Boards Bill, which we are going to pass, there is nothing to indicate that the school board will be under the supervision and under the control of the district local board as a whole. My point is that, while we have got existing local educational authorities, a bill of this character ought to provide, as they have provided in England by the Education Act of 1918 and of 1921, for combination and co-operation of several local educational authorities for the purpose of forming joint committees or having joint managers for advancing and progressing elementary education on national lines. That is the movement there and, viewed from that standpoint, I believe the proposals in this bill are a little retrograde. But I believe that it would be open, as it is a question of machinery, to consider this question, in the select committee and at the second reading, whether the existing local authorities may not be allowed to have their powers and at the same time they may not be vested with powers to combine and co-operate by forming joint committees, as they are empowered to do in England.

The next point, Sir, to which I wish to advert, is the point with reference to the powers of management and control. Several honourable members have referred to that point, that the bill leaves everything to Government to prescribe. With reference to that, I wish to refer to what had happened in 1883, when the present Local Boards Act and the District Municipal Act of 1884 were before the Legislative Council. At that time it was said that the time had not then come when teaching, discipline, management and direction of schools, and appointment, remuneration, promotion and dismissal of teachers could be handed over to local bodies. It was, however, then promised that probably gradually an increasing share in control and management would be given. However from 1884 onwards up to now, nothing in that direction has been done and, after 38 years, we have this bill before this Council under a reformed constitution from an Honourable Educational Minister in charge of a transferred department, in which he leaves everything to Government to prescribe. That, I believe, is a very unsatisfactory part of the bill. The Honourable Minister may have his own ideas, but he may not be in a position to carry them out, being not in office for the full time which may be required for it, and there may be another gentleman who may take his place who may not share his views. Under such circumstances, would it not be right that in this year of 1922, when we are at a distance of 38 years from the promise made during the debate on the Local Boards Act of 1884, I say, is it not possible, to prescribe general lines by which there would be devolution of power, with reference to management and control, to the local educational authorities for the purpose of carrying out the principle of compulsion and at the same time for the better management and control of primary education.

Then, Sir, I would refer to the question of finance. Upon that point several honourable members have said much. I only wish to refer to one particular part which has not been emphasized. Clause 11 refers to the recurring cost—half the recurring cost and two-thirds of the recurring cost—of a scheme. Now, if you look at the recommendation of the committee appointed for this purpose, you will see that they divide the subject into two parts,

[Rao Saheb Harilal D. Desai]

(1) compulsion or (2) extension on a voluntary basis. Now, whether you take the one case or the other, in every case there will be some non-recurring cost and a lot of recurring cost also. For non-recurring cost there is no provision in the bill. Schools have to be built and furniture has to be provided. That will be a part of non-recurring cost, for which the local educational authority is not likely to get anything from Government, and, in the case of compulsory education, you will require a staff of inspectors, you will require additional staff in various branches, and that would add to the cost. And yet, what we find is, whether there be normal extension on a voluntary basis or whether there may be compulsion, still district local boards and district municipalities are only to get what they do get at present for the existing arrangement. For future extension, whether on a normal basis or on a compulsory basis, they will be getting two-thirds or half, as laid down in the clause. That, I believe, will put the local educational authorities in a very difficult situation, and that also requires further consideration. I do agree with the views expressed by my honourable friend the Registrar of Co-operative Societies that these school boards, if they are to be separately established, ought to be manned by men of common sense and experience, and ought not to be run by cranks in education, and pedagogues only. I share his views and at the same time say that the honourable member from Satara never meant to convey that he was in favour of having on the school boards only men experienced in education.

The last point that I wish to refer to is with reference to the power which Government want to reserve to themselves to appoint any person to carry out a scheme or to continue the scheme and to levy the necessary taxation in case of a defaulting local educational authority. I submit, Sir, that in England that power has been denied and that provision has been abolished, and I think that it would be a very objectionable provision to allow it to remain in the bill which is before us. With these words I commend the bill to the acceptance of the House for the first reading.

Mr. C. M. GANDHI (Surat City): Sir, at this late hour after several honourable members have spoken on this bill the first important point that I want to bring to the notice of this House is the unsatisfactory character of the bill so far as clause 8 is concerned. The feeling that I had after I read this bill for the first time was that this bill is hardly a great advance on the Patel Act. Clause 8 says "Local authorities may by resolution declare their intention to provide compulsory elementary education, etc." Now, however anxious or enthusiastic some members of the local board may be, I am afraid the chances are that on account of the present state of the finances of the local authorities they will never make up their minds to declare in favour of compulsory primary education. Then the next clause says under certain circumstances Government should take on themselves the duty. Now so far as the Honourable Minister who has introduced this bill is concerned, if he continues to be in office.....

The Honourable the PRESIDENT: May I with all respect say that this is merely repetition? Those two arguments have been used by nearly every honourable member who has spoken before now. (Honourable Members: Hear, hear.) Surely we ought to have some freshness of argument. I hope honourable members who are to address the House to-morrow will not repeat arguments that have been frequently used.

The Council is now adjourned till 2 p.m. on Wednesday, the 4th October 1922.

*Wednesday, the 4th October 1922.*

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The Council re-assembled at the Council Hall, Poona, on Wednesday, the 4th October 1922, at 2. p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA
FERNANDES, Major C.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODBOLE, Dewan Bahadur K. R.
GRIFFITH, Mr. F. C.
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HAJI KHAMISO GUL MAHOMED, Mr.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
ISRAN, Khan Saheb G. A.
JADHAV, Mr. B. V.
JENNINGS, Major-General W. E.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.

Ker, Mr. J. C.
Laghari, Khan Bahadur Khair Baksh
Lalbhai Ambaram, Mr.
Lawrence, The Hon'ble Mr. H. S.
Ligade, Mr. S. P.
Lory, Mr. F. B. P.
Mansuri, Khan Saheb A. M.
Mead, Mr. P. J.
Mohomed, Salahuddin K., Mr.
Mountford, Mr. L. J.
Mutalik, Sardar V. N.
Nilkanth, Rao Bahadur R. M.
Nimbalkar, Mr. K. B.
Ojha, Mr. Dipchand T.
Pahalajani, Mr. B. G.
Painter, Mr. H. L.
Paranjpye, The Hon'ble Dr. R. P.
Patel, Mr. B. P.
Pradhan, Mr. M. W.
Rahimtoola, The Hon'ble Sir Ibrahim
Salgar, Mr. R. G.
Sayed, Mr. Mahomed Kamal Shah
Setalvad, The Hon'ble Sir Chimanlal
Shirras, Mr. G. Findlay.
Sindore, Mr. H. N.
Surve, Mr. A. N.
Thakor of Amod, Sardar Naharsinghji
Thomas, Mr. G. A.
Trivedi, Mr. G. B.
Vichare, Rao Bahadur D. A.

## PRIMARY EDUCATION BILL (BILL No. XVII OF 1922).

*(Debate on the first reading resumed.)*

The Honourable the PRESIDENT: Order, order.

Mr. C. M. GANDHI (Surat City): Sir, I was pointing out yesterday that clause 8 did not go far enough. I would like to have that clause amended somewhat on the lines of section 11 of the English Education Act of 1921. That section runs as follows:

> With a view to the establishment of a national system of public education available for all persons capable of profiting thereby, it shall be the duty of the council of every county and county borough, so far as their powers extend, to contribute thereto by providing for the progressive development and comprehensive organisation of education in respect of their area, and with that object any such council from time to time may, and shall when required by the Board of Education, submit to the Board schemes showing the mode in which their duties and powers under this Act and sub-section (6) of section two of the Blind Persons' Act, 1920, are to be performed and exercised, whether separately or in co-operation with other authorities,

[Mr. C. M. Gandhi]

I think, Sir, that if this Act is to be more widely used and is not to be a dead letter as the Patel Act has been up to now, the Act ought to be amended in such a manner as to throw on the local authority the duty of spreading compulsory education within a given time. I would have liked to have that clause 8 amended on somewhat.....

The Honourable the PRESIDENT: This suggestion has been made already by several honourable members. Properly speaking it is a point for the select committee and for the second reading and not for the first reading. But I allowed it for full freedom of debate. Now I should not allow its repetition.

Mr. C. M. GANDHI: Then, Sir, I would also like to have the preamble modified.

The Honourable the PRESIDENT: Order, order. That again is out of order. The preamble, as I said yesterday, is governed by the enacting clauses of the bill, and can be modified if the clauses are modified; the preamble is a follower of the clauses and simply states an existing fact.

Mr. C. M. GANDHI: I was only going to say.....

The Honourable the PRESIDENT: I have ruled it out of order. You have to accept my decision.

Mr. C. M. GANDHI: I accept it entirely, but the rule says that the preamble may contain a fact which is a fact established or accepted by this House. I say, Sir, that this House has accepted it as a fact that compulsory primary education is the goal to be aimed at. I say, therefore, Sir, that this preamble ought to contain a fact established by this Council, namely that compulsory education will be the goal of this Council to be attained within a particular period.

The Honourable the PRESIDENT: That is already the principle of the bill—that is its goal. The honourable member need not waste time over what is a fact and is not disputed.

Mr. C. M. GANDHI: Subject to what I have already said, Sir, I welcome this measure, knowing as I do the difficulties of the Honourable Minister in drafting a bill in which he had to try to meet divergent opinions.

The majority of the committee were of opinion that compulsory education should begin from places where education has spread the most. The other members are of opinion that it should begin at once from those areas where it has not made any beginning at all. The bill as submitted has tried to meet these divergent opinions in the only way it was possible to meet them. It is not, however, true to say, as some honourable members have said, that Gujarat is not keen on compulsory primary education. No doubt I am aware that members from Gujarat advised caution particularly in view of the fact that Gujarat is now passing through critical times so far as education is concerned. The fact to which the honourable the Director of Public Instruction referred, namely that Gujarat was educationally the most advanced province of the Presidency, and the fact that the city of Surat was the first to take advantage of the Patel Act, shows that the Gujaratis are equally keen for compulsory primary education. It was suggested that in view of the fact that Gujarat was already advanced in education, and that Gujarat was so far unduly pampered, so far as education was concerned, in times gone by, some of the money which was till now devoted to Gujarat could be profitably diverted to other provinces

[Mr. C. M. Gandhi]

of the Presidency. I say, Sir, these views are not correct. The conclusion which the honourable member from Ahmednagar drew, namely that Gujarat was lukewarm, was based upon the evidence of a solitary retired official who was a Mahomedan, and knowing as we do that even in Gujarat, Mahomedans do take kindly towards the education of girls, it was hardly proper to generalise from the evidence of that solitary Mahomedan gentleman. Gujarat is mostly a commercial country, and the trading classes know the advantages of literacy. Therefore, Gujarat has made all possible efforts to advance literacy in that province so far as they could, and some of the best schools in the Presidency will be found in Gujarat. So that, it is not right to say that Gujarat is not for compulsion and Gujarat should not have the same advantages of the spread of education as the other parts of the Presidency. Then, Sir, it was stated that, in view of the fact that Gujarat was favoured considerably more in the past, the funds which could be devoted to Gujarat may be as well diverted to other districts. As to that, I submit the figures are quite the other way. If you refer to the latest Government publication, on the administration of local boards in the Presidency, you will find that the Northern Division got a contribution of Rs. 16,62,000 from Government, the Central Division Rs. 21,32,000 and the Southern Division Rs. 17,00,000, and in the case of municipal expenditure also the Northern Division got about Rs. 65,00,000 and the Central Division Rs. 67,00,000; so that, it is not true that Gujarat has got any undue share of the provincial revenue from Government, so far spent on education. I do not like to bring in any parochial considerations in a matter like this, which ought to be looked at from a broad national point of view. But, when all things are considered, one cannot help feeling that Gujarat has so far rather been unfavourably and badly treated.

The Honourable the PRESIDENT: Order, order. The past is past. We are now dealing with the present and the future, and therefore we need not cry over the insufficiencies of the past either as regards Gujarat or as regards other districts.

Mr. C. M. GANDHI: I bow to your ruling, Sir. Then, coming to the machinery provided, I feel that we have taken, so far as this bill is concerned, a retrograde step. I think the difficulty of the Minister has arisen because of the fact that he took the definition of a municipality bodily from the District Municipal Act. On account of certain difficulties in the working of the District Municipal Act, a city municipality had to be defined there in that manner, and because many more city municipalities had to be created for the purpose of thrusting chief officers on the municipalities, many municipalities which ought not to be city municipalities are now, under section 181, city municipalities. I do not think there is any charm in retaining the definition of the word 'city municipality' which has been given in the District Municipal Act. We can define city municipalities for the purpose of this Act, and make the definition apply only to municipalities with a population of 30,000 or more and also include therein all such urban municipalities as are going to come in; so that, we shall thereby bring in all those local authorities so far as urban municipalities are concerned who have been working the school committees fairly satisfactorily.

There are other provisions of the bill which, as has been said by many of the honourable members who have previously spoken, require to be looked into in the select committee, and I hope when the select committee meets we shall be able to set them right.

Mr. M. A. HAVELIVALA (Bombay City): Mr. President, from the point of view of the Mahomedans, the introduction of this bill is indeed a very great reform, and posterity will remember with gratitude the present Government for the bold step that they have taken in introducing this legislation, with the object of making elementary education a universal one for the masses of the Presidency. I trust, Sir, that in practice this will be achieved at an early date. I am sure, speaking for the Mahomedan community, that no community would welcome this measure much more than the Moslem community as I believe that the conditions of the Mahomedans on the whole, in all spheres of life, will never be placed on a more satisfactory basis unless and until education spreads among the masses on a very extensive scale, for I believe that elementary education is the foundation of lifting the whole of the community to a higher sphere of life. Admittedly, the standard of literacy among the Mussalman community is very low, and the only way to raise it is to make education compulsory in that community.

When, at a time like this, when the selfless leaders of the Mussalman community are working to facilitate education for their brethren, I should not allow a remark made in this Council by my honourable friend the member from the Panch Mahals, go uncontradicted and unchallenged. My honourable friend from the Panch Mahals said yesterday in this Council that "Islam prohibits girls from going to school". Sir, this is far from the truth. There is not a single chapter, or a verse, or a line in the Holy Koran favouring any such idea as was suggested by my honourable friend. On the other hand, it has been ordained by our revered Prophet to all his followers to acquire knowledge even if they have to go to the far distant land of China. Surely, Sir, it cannot be contended for a moment that going to school in one's own native town or village is more difficult as going to a far off land like China. My honourable friend knows that in every town and village, wherever there is a Bohra population, in Gujarat, Kathiawar or the Deccan, there is a *madressah* attached to the mosque, and there both boys and girls receive secular education, and I am proud to say that, so far as my community is concerned, to which my honourable friend from the Panch Mahals also belongs, education in that community both for the boys and the girls, is almost universal. You will not find a single Bohra child, either a boy or a girl, who does not attend a *madressah* or a school. Of course I admit that so far as the girls are concerned, they are withdrawn at the age of twelve from the school or *madressah*, and therefore this bill, which restricts compulsion to the age of 11, cannot possibly conflict with the religious susceptibilities of any section of the Muslim community.

I would like to make one more remark, namely, although the committee recommends that compulsion should be applied only to boys at present I go a step further and say that it should be applied to both boys and girls simultaneously so that universal education may become a reality. There should not be any half-way house in reaching this goal.

Having regard to all these manifold advantages that are likely to accrue to the Bombay Presidency by universal literacy, I trust that Government will not be deterred by any obstacles or impediments in the way of applying the policy of compulsion in a whole-hearted manner and thus attaining the goal desired at an early date.

Mr. LALBHAI AMBARAM (Surat District): Mr. President, on account of sickness I had no idea of taking part in this debate, but when the wind has been blowing only in one direction totally, I think it my duty to bring to the

[Mr. Lalbhai Ambaram]

notice of this House my views on this matter. Mr. President, this bill has been introduced with the sole object of removing illiteracy from this Presidency. Now, in order to achieve that object, a committee was appointed by this House.....

The Honourable the PRESIDENT : It was not a committee of this House but it was a committee appointed by Government.

Mr. LALBHAI AMBARAM : A special committee was appointed and in order to carry out the views of that committee, the Honourable Minister thought it necessary to embody in the bill the clause of compulsory education. As far as I have understood the members who have already spoken, I have come to the conclusion that this sort of compulsion is needed specially in the backward classes and not in the forward classes. Then, I believe that this provision of compulsion in the bill will not meet with success as far as my experience goes.....

[At this stage the debate was interupted under Standing Order IV, 1(4).]

## Death of Sir BHALCHANDRA KRISHNA, Kt.

The Honourable the PRESIDENT: I have with deep regret to announce to the House the sad news of the death of Dr. Sir Bhalchandra Krishna who was for several years a valued and prominent member of the Legislative Council of old of this Presidency. I am quite sure that this House will join with me in expressing our deep sense of regret at the sad loss which has been sustained by India in general and this Presidency in particular. Sir Bhalchandra was for nearly forty years a public leader in this Presidency, identified with various kinds of useful activities for the good of the country ; he was a member of the Bombay Municipal Corporation for more than thirty years, down to a few years ago when he retired from that civic activity on account of his ill-health. He was for some time President of the Bombay Municipal Corporation and, combined with his practice which was very large, were his exertions in several directions of public usefulness. As a member of the Legislative Council of the Bombay Presidency of old, he represented for several years the University of Bomay and during the first period of the plague, when Lord Sandhurst was the Governor of Bombay, he rendered to the Government valuable service in coping with that dire epidemic. The country has lost a most useful citizen, a generous soul, one who was loved by all and who never spared any exertion on his part to render himself useful to the country at large.

The Honourable Sir IBRAHIM RAHIMTOOLA : Mr. President, I desire to associate myself with the sentiments to which you, Sir, have given expression. I have had the privilege of working with Sir Bhalchandra on many public associations and I know how zealous he was in the discharge of his public duties and in his desire to render the best service he could to his country. I trust that the whole House will associate itself with you, Sir, in the observations you have given expression to.

## PRIMARY EDUCATION BILL (BILL NO. XVII OF 1922).

(The Debate was resumed.)

Mr. LALBHAI AMBARAM : Before we resort to compulsion I say, Sir, that there are other methods which ought to have been applied before resort to this last measure. Mr. President, the lower classes in India can be governed or can be easily governed by love, sound advice and inducement. If the Council wants an instance in support of my opinion, I would gladly inform

[Mr. Lalbhai Ambaram]

the House that in one of the talukas in my district the people were so backward that they did not know what education was. I must express my hearty thanks to the missionaries and also thanks to the revenue officers who joined with the officers of the Educational Department. In order to make the people realise the importance of education, the missionaries and those officers adopted the methods above stated rather than compulsion.....

The Honourable the PRESIDENT : Is it necessary to go into all that ?

Mr. LALBHAI AMBARAM : Because I am against compulsion.

The Honourable the PRESIDENT : It may be, but I do not know how you can bring in the missionaries ?

Mr. LALBHAI AMBARAM : I am simply giving an instance in support of my conclusion.

The Honourable the PRESIDENT : Very well, let me follow your argument a little more to see its relevancy.

Mr. LALBHAI AMBARAM : With the help of the Revenue Department, the educational authority started a boarding school house, and gave other educational facilities, in order to make the people understand the benefits of education. What I want to impress upon the House is that India is not a country for compulsion, and a compulsory law will bring discredit both to Government and the people. (Honourable Members : No. No.) I am stating the existing state of things. Well, Sir, we have been under the British rule for the last 100 years and it is strange to say that there are still people in this Presidency who have not learnt what the advantage of educaton is, and the Government have not been able to impress upon the people of this Presidency that education is essential to their progress. For these reasons, I am strongly of opinion that there should not be any compulsion so far as the backward classes are concerned.

There is also one other point which I wish to bring to the notice of this House in connection with compulsory primary education. In certain localities there is a movement urging the people to understand that the education given at present is bad, that it is more expensive, that it spoils the health of children, and lastly that that kind of education leads to slavery. So long as this impression is not removed I am afraid no progress will be made, and compulsion, which is the goal of this bill, will hardly be attained.

There is one more point which I wish to refer to. Suppose all these people are compelled by a statute to send their children to school, what guarantee is there that there will be no fraud, which the people may commit with the help of schoolmasters ?

The Honourable Dr. R. P. PARANJPYE : What fraud ?

Mr. LALBHAI AMBARAM : I am coming to that. Suppose I have got a boy whom I do not wish to send to school. I ask the teacher to enter his name. I will not send my boy to school for many reasons. I shall say that I am ready to send the boy to the school, but the boy himself absconds. What is the guarantee that such frauds will not occur ? I have come across such cases where schoolmasters are asked.....

The Honourable the PRESIDENT : That is a question of administration, not legislation; and you need not trouble yourself about it.

Mr. LALBHAI AMBARAM : I merely touched the point.

The Honourable the PRESIDENT : You touched it and I have touched it out as not relevant.

Mr. LALBHAI AMBARAM : Then I go to the question of free education. Well, Sir, to my mind, the provision that I find in this bill is not sufficient,

[Mr. Lalbhai Ambaram]

In one of the clauses it is stated that the local bodies should not levy any school fee for boys going to school. If there is a provision that the local bodies should not levy an educational cess, then it can be called free education. When the people are asked to pay an additional educational cess, where does free education come in ? I am aware of what has happened in Surat, where compulsion was introduced. There an educational cess was imposed, and there was a great agitation about it. It was levied at the rate of half an anna on each rupee of the municipal tax which a person pays. I will just quote an instance. Suppose I pay Rs. 100 as municipal tax, and I have no school-going children. I have to pay Rs. 3-2-0 every year as educational cess, while my neighbour who pays Rs. 2 as municipal tax is asked to pay 1 anna as educational cess. It is for this reason why the step taken by the municipality is not much liked by the people there.

Mr. P. R. CHIKODI : It is a matter of detail, Sir.

Mr. LALBHAI AMBARAM : I am simply giving an instance.

The Honourable Dr. R. P. PARANJPYE : How many children has your neighbour got ?

Mr. LALBHAI AMBARAM : Five.

The Honourable the PRESIDENT : How much do you pay ?

Mr. LALBHAI AMBARAM : I have to pay Rs. 2-3-0 ; but I have no school-going child.

The Honourable the PRESIDENT : I think the honourable member from Belgaum is quite right in saying that it is a matter of detail. The honourable member for Surat now addressing had better stop at that.

Mr. LALBHAI AMBARAM : Well, Sir, my point is.....

The Honourable the PRESIDENT : Please abide by my ruling. The time of the Council should not be wasted on such matters of detail at this first reading.

Mr. LALBHAI AMBARAM : Now I come to the third point, namely, the formation of school boards. Well, Sir, according to the experience that I have got, these boards, as has been described here, will hardly be in a position to do any useful work. This board is composed of people elected by the several boards, municipalities, minorities, and so on. Looking to the report of the Educational Department in regard to local boards, I find there is a complaint that the non-officials are not taking any interest or much interest in the matters relating to local boards. So I have no reason to hope for good work from this board, and, as the Honourable the Director of Public Instruction told us the other day, there is no use creating a board if there are not proper men available. Sir, it is a very hard task to find out what is proper and what is not proper. Everybody, human nature being what it is, would come forward for such honour. But my experience leads me to say that those among the members of the board who are advanced in education have got lots of other matters to attend to ; they hardly get sufficient time even to attend meetings of a board. On the contrary those who have not got sufficient education will always remain nervous to do anything. So I am not of opinion that the House should bother itself with the idea of starting a school board.

Now, I want to deal, Sir, with the fourth point, namely, the appointment of a separate executive officer for the school boards.

The Honourable the PRESIDENT: That is entirely a matter of detail, it does not affect the principle at all. Even if you delete that officer, the principle of the bill will remain.

Mr. LALBHAI AMBARAM: Just as you please, Sir. Then, in clause 20, paragraph (2), I find concurrent jurisdiction of two authorities. Instead of those authorities, if the duty of making a complaint were entrusted to the schoolmaster, it would serve the purpose well. With these remarks, I oppose the main principle of the bill, namely, compulsory education.

Mr. B. P. PATEL ((Ahmedabad District): Sir, the introduction of compulsory education means that a large sum of money is required. I submit that, in the beginning, Government should come forward to meet all the expenses and when the people—the masses—gradually get the taste of education and realise the value of it, then gradually Government should withdraw the grants of money and ask the local bodies to find the money themselves. I submit, in this way, most of the recommendations made in the Education Committee's report can be gradually and successfully carried out.

I support the shift system recommended by the committee in their report, because by means of that system more accommodation will be found in the beginning.

I suggest that the age limit of school-going children should be between 5 and 11 years, because in that way the ignorant parents will not be able to take their children to fields in their infancy.

It is high time that this bill be immediately introduced and passed into law. With these words, I support the first reading of the bill.

Mr. D. B. DALAL (Panch Mahals District): Sir, I beg to support the motion of the Honourable Minister. We all accept the main principle underlying this bill and there is no question about it. But Sir, I come from a district which is most backward in all respects, that is, agriculture, trade, commerce and education, and is inhabited to a great extent, by Bhils and other forest tribes, who eke out a precarious livelihood from forest produce, grass, timber, mhowra flowers and mhowra seeds, and a precarious food crop from agriculture. Excellent as the measure is for introducing compulsory primary education, where there are people plunged in ignorance and darkness such as the Bhils and other forest tribes, I think legislation ought to introduce such a mitigating measure that it will not work injuriously on the people and defeat the object which we all have in view. The Bhils, Sir, in spite of the penal clauses, will not send their children to the school and the penal clauses, I am afraid, will be a dead letter in the long run so far as these forest tribes are concerned. I therefore suggest that the penal clauses and some other sections consequential on those clauses may be modified by the select committee in such a manner that the children of the Bhils and Naekas may have an opportunity to help their parents during the mhowra and crop seasons on which the existence of the whole family depends.

Besides, Sir, in my district I do not think that girls should be brought under compulsion in the commencement. And the course of studies to be adopted in my part of the district should be such as is peculiar to these tribes and as would give them the taste for the three R's, *i.e.*, reading, writing, reckoning.

Then the next suggestion that I wish to make is as regards the question of finances. Sir, the responsibility of primary education lies mostly on the shoulders of Government rather than on the shoulders of the local boards and the aid which Government is going to give them is I think rather very unsatisfactory,

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and I think an advanced Government of this type should at least give in the beginning all the expenses. In a district like the Panch Mahals the Honourable Minister is well aware what prospect there is to raise money for this increased expenditure, and I hope he will note the helplessness of the local bodies to impose any more taxes and also of the people to bear the burden of any more taxes. With these remarks I support the first reading of this bill with a hope that the select committee will consider the different suggestions made by honourable members who come from the backward districts like my own district.

Dewan Bahadur K. R. GODBOLE (Poona District): Mr. President, I will not take up much time in addressing honourable members on the present bill. This bill, Sir, is a further instalment or a continuation of the Patel Bill which the Council passed in 1918. The great difference between the two bills is that in the case of the Patel Bill it was left optional to the city municipalities to go in for compulsory education or not as they wished. In the case of the present bill, the local authorities have the option of preparing the scheme for compulsory primary education in their areas but if they do not exercise this option, then Government have the right to intervene and prepare a scheme by means of their own officers. If a local body fails to come up to the expectations of Government, and if it does not prepare a scheme for compulsory education, Government have reserved the power of preparing the scheme themselves and of recovering the cost of that scheme from the local body. I think, Sir, that this is going a little too far. What I think is that in the case of compulsory education responsible local bodies ought to be allowed to have free scope to exercise their own option.

The Honourable Dr. R. P. PARANJPYE: Or not.

Dewan Bahadur K. R. GODBOLE: If a local body does not choose to have compulsory education in its area, I do not think Government should thrust themselves in and say to that local body "You are wrong, we will force this compulsory education scheme on you." I think this will make compulsory education unpopular, and Government ought to abandon that position. A local body that is willing to accept the scheme should be allowed to introduce it. The power that is given to Government by this bill to interfere themselves and to prepare a scheme for a local body against the wishes of that body should not, I think, find place in the provisions of the bill. In the previous speeches, assertions have been made by several honourable members that the countryside is prepared for compulsory education. My experience is quite otherwise. In the remoter portions of a district, away from the taluka towns and from the principal town of a district the feeling of the rural population is decidedly against this compulsory education. They do not want it and they are not prepared to pay any taxes for it. I have myself made detailed inquiries in the Poona district in two or three outlying villages and the result of these inquiries is that Mahars and Mangs and other backward classes are dead against this bill. They do not want compulsory education. I think, therefore, that we ought to go on very cautiously if we want education to spread generally without discontent. The position that was taken up by the Honourable the Leader of the House when he was in charge of the Education Department is in my opinion the right position to take up as regards these backward classes. We ought to multiply the number of schools for these backward classes as much as possible and spread education among them on voluntary basis and when it is spread to a sufficient extent the principle of compulsion should then be introduced.

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Now, let us see whether financially it is possible for us to have compulsory education throughout the whole of the Presidency. I decidedly say that this will be beyond the financial capabilities of this Presidency. The figures that have been given in the report of the Compulsory Education Committee show that on the 31st of March 1921 the number of children attending primary schools in this Presidency outside Bombay City was 5,05,000 and the number of children that were out of school and that were not studying on that day was something like 17,60,000. Now the cost of educating these 17,60,000 children means an expenditure of 3½ crores of rupees per year. Now I will ask the honourable members of this House to say whether the Presidency will be in a position to produce 3½ crores of rupees per year, for the spread of primary education during the next eighteen or twenty years. I do not think they will be in a position to do that. Therefore the attempt to spread primary education throughout the whole Presidency excluding the city of Bombay and to bring every child under the primary education scheme is a problem that is beyond the financial capabilities of this Presidency and it should not be attempted. Even in the scheme that has been outlined in the committee's ten years' programme, universal primary education is not attempted. According to the programme the present number of boys in the primary schools which is 6,00,000 will at the end of ten years, if the whole programme is carried out, be increased to 10,69,000, but even this number will be about 80 per cent. of the school-going population of the whole Presidency. In the case of girls the results will be still more meagre. The number of girls attending primary schools at present is 1,53,000, and the number that will be attending schools after the ten years' programme is carried out will be 3,68,000 girls, and that will be only 33 per cent. of the girls that ought to attend primary schools if the compulsory education programme is to be carried out in full.

So, even after these ten years of the programme we do not make very much progress in the spread of primary education. This ten years' programme assumes that the local boards will spend 29 lakhs of rupees on education per year instead of the present 9 lakhs. For the local boards to be able to spare the 20 lakhs of additional expenditure on primary education, they must have an additional income of 60 lakhs per year. This is because the local boards are responsible not merely for education; they are responsible for sanitation, for medical relief, for development of the district by means of additional communications and so on. When they produce an income of an additional 60 lakhs per year they will be able to spare 20 lakhs for primary education. Now, knowing what we have been able to do hitherto and judging by the resources that are and that will be at the disposal of the local boards, I do not think that in ten years the local boards will be able to secure an additional revenue of 60 lakhs, out of which 20 lakhs can be spared for education. I think, therefore, that the ambitious programme that is put forward in the bill will be wrecked on financial grounds. I am therefore of opinion that we ought to go more slowly.

I think compulsory education in the first stages ought to be confined to population centres of 5,000 and upwards, *i.e.*, the 202 towns according to the census of 1921, and also to places that have recognised organisations in them for carrying out the provisions of the Compulsory Education Act—I mean places having smaller municipalities or village panchayats.

The Honourable the PRESIDENT: May I ask the honourable Dewan Bahadur whether it is necessary to dilate on this point, when the bill itself,

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while recognising the principle of compulsion, says that it is competent for Government to exempt any particular place or community? These are all matters of detail, I should think.

The Honourable Dr. R. P. PARANJPYE: Yes.

Dewan Bahadur K. R. GODBOLE: The only point I wanted to bring out was the leakage of education that is taking place and the necessity of preventing it. In my district I have been going round villages away from taluka centres, and I find that scholars who have studied up to the fourth standard, have by now lost what they have learned.

The Honourable the PRESIDENT: We are not now dealing with the question of leakage, but the principle of the bill.

Dewan Bahadur K. R. GODBOLE: What I mean to say is that primary education should be made compulsory in large village centres only.....

The Honourable the PRESIDENT: That I say is an administrative measure provided for by the bill itself.

Dewan Bahadur K. R. GODBOLE: But the bill proposes to go in for smaller villages also.

The Honourable the PRESIDENT: That is possible, but they may be exempted. The bill says you can apply it anywhere, but you can also exempt any particular locality.

Dewan Bahadur K. R. GODBOLE: The point I am making is that it should not be applied to smaller areas.

The Honourable the PRESIDENT: Do you want a provision in the bill itself?

Dewan Bahadur K. R. GODBOLE: If possible, the operation of the bill should be confined to larger towns.

The Honourable the PRESIDENT: You want it in the bill itself, instead of leaving it to administrative regulations?

Dewan Bahadur K. R. GODBOLE: Yes.

The Honourable the PRESIDENT: If you had put it in that way, I would not have interrupted.

Dewan Bahadur K. R. GODBOLE: I think that the scope of the bill ought to be confined to large population centres and not extended to smaller population centres.

The Honourable the PRESIDENT: You think the bill ought to do what it now leaves Government to do by regulations?

Dewan Bahadur K. R. GODBOLE: If possible, I want the bill to run on the lines pointed out: its scope should be confined to large population centres and to villages that have municipalities or village panchayats in them. One particular reason for this is that if compulsory education is confined to these centres, there will be no leakage, because in these large places we can establish libraries, circulating libraries and other means of spreading cheap literature among the villagers who will then be able to keep up what they have learnt under our compulsory education scheme. As I was telling the House, in the case of outlying villages a lot of education that has been given is at present practically lost. The other day, I visited an outlying taluka village. There

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were six agriculturists in that village who had studied up to the fourth standard; they admitted to me that after four or five years they had lost most of what they had learnt except Balbodh reading and writing and a little of arithmetic; the Modi that they had learned was gone.....

The Honourable the PRESIDENT: There again, you are coming to a point with which we are not concerned on the principle of the bill.

Dewan Bahadur K. R. GODBOLE: The point I am making is that if you confine your compulsory education to big villages, by means of libraries, circulating book clubs, and so on, we can keep the education that we will be giving, and what we have given will not be lost. That will be the advantage. So, I think it will be a good thing if compulsory education is confined to large population centres of the Presidency in the first instance leaving the smaller population centres and villages to be dealt with later on, that is, until in the ordinary course of the propaganda of the Education Department education has already spread in those areas to some extent.

These are the remarks I had to make regarding the present bill.

Mr. B. G. PAHALAJANI (Western Sind): Sir, I regret to say that the scope of the bill as presented to the Council is inconsistent with the intentions of the Honourable Minister as he himself has expressed them. The Compulsory Education Committee was appointed on the 15th July 1921, and on the 2nd August 1921, this Council accepted after considerable discussion a resolution that compulsory education is the goal to which the Government must declare its adherence. When the Committee was appointed, to it was referred the question, marked as question no. 1, to consider and report on the desirability and practicability of introducing free and compulsory education in municipal and rural areas. After the policy was declared by the Government through the Honourable Minister, the Honourable Minister expressed openly in this Council in answer to my question that the first point referred to the Compulsory Education Committee had to be abandoned. We have the consolation of having in charge of education a Minister who takes a personal interest in the progress of education. He referred to that same committee a few other points, and amongst them the most important was no. 4, namely, to submit a definite programme showing the various steps which should be successively taken so that a complete system of free and compulsory education may be introduced within a definite period, and you, Sir, will bear out this fact that that committee engaged itself for a considerable time over the determination of that one, single, simple question. And, Sir, the intention of the Honourable Member in charge, the Minister Dr. Paranjpye, as to what he wanted to do is clear when we refer to what he said in this Council. These are his words:

> "I want the committee to lay down a definite programme which will be carried out. I cannot really think that members of the Council expect me to come out with a cut and dried scheme in a few months, involving such large questions, without adequate consideration, without adequate consultation with people holding all shades of opinion."

Further, in the same speech, he said:

> "Then I come to the remarks of my friend Mr. Gupte. He appeared to think that in Mr. Patel's bill the question of compulsion has been once for all settled. He will find that the question before us is far wider than that Compulsory Education Act. It is not optional compulsion that we are now thinking of; it is compulsion to be enforced on every municipality, whether it wants it or not, and to be enforced on every village in the Presidency of Bombay."

The Honourable the PRESIDENT: Who said that?

Mr. B. G. PAHALAJANI: The Honourable Minister, at the time of replying to the discussion on the resolution.

Now, Sir, I am naming him, because it is the personality that is behind the bill that intends to introduce compulsory education but it is not the bill that gives that scope to compulsory education as it is now placed before the Council.

Now, with this declaration of policy, with this declaration of principle, with a committee absolutely charged, I say, with fixing the programme showing the various steps to be taken so that a complete system of free and compulsory education may be introduced within a definite period in the Presidency, and with the intention of the honourable member that he will be glad to see it introduced in every municipality and little village in the Presidency, I would ask the Council to consider whether the wording of this bill—not the intention of the proposer of the bill which never would appear before our posterity—answers the undertaking and the promise of the Honourable Minister. If it does, I have nothing else to say, but I would certainly say, Sir, that there is not a word in the whole of the bill which respects the findings of the Compulsory Education Committee appointed by him, for whom he declared extreme respect on the 2nd of August. I fail to find, except a small, little matter about the school board, any matter in which the opinion of the Education Committee has been reproduced in the bill. That committee stood charged with suggesting detailed proposals for any legislative and administrative measures necessary for the purpose, including the machinery required to carry out any such measures, and that committee, headed by you, Sir, reported as follows:

"Legislation in respect of primary education is at present to be found in the Bombay District Municipal Act, 1901, the Bombay Local Boards Act, 1884, and the Bombay Primary Education (District Municipalities) Act, 1918."

This bill does not differ much from those Acts. The committee goes on to say:

"*We propose that a separate and comprehensive Primary Education Act should be framed dealing with the whole question of the management of primary education, and containing in addition, the provisions necessary for the introduction of compulsory education.*

"The general relations between Government and local bodies in respect of primary education which are at present laid down in the rules framed under the Municipal and Local Boards Acts might *well find a place in a Primary Education Act.*"

That committee, therefore, gave its absolutely distinct and clear opinion that rules will not do, that the Government changes the rules from time to time, and abrogates to itself the function of providing finances at its sweet will, and that therefore rules must be done away with, and unanimously recommended that every such thing must find its place in a comprehensive Compulsory Education Act. The committee advised legislation and the form of that legislation. A responsible committee headed by an Honourable Judge of the High Court, who is expected, I think, to know exactly what he means by the words "rules made by the Government" made that recommendation. But we find that all the most important points referred by the Honourable Minister to that committee, when the bill was drafted, remain altogether neglected. We find this bill contains 24 clauses, and amongst them there is only one important clause, namely, clause 8. There is no other clause of importance at all, and the effect of even this clause 8 is obliterated by clause 10, which leaves the Government the power to grant and refuse; we stand now, Sir, not one inch in advance of the Patel Act of 1918 so far as the principle of compulsion is concerned. That Act, in section 5, gave the option of compulsion—

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that is the word the Minister used in the last discussion—to municipalities. Clause 8 of this bill is in no way different. Section 5 of the old Act provided that any municipality *may* resolve to have compulsory education. Exactly the same word has been used here, the same section quoted in the margin as its model, *it may* if it chooses; a local authority *may* resolve that compulsory education be introduced. I will put it to you, Sir, I put it to the honourable member himself, if he has framed in his own handwriting the bill, whether he can differentiate between section 5 of the old Act and clause 8 of the present bill, whether he would be prepared to tell you that clause 8 of the bill confers any further authority on the local board than section 5 of the Patel Act gave. I say and I repeat that the whole of this bill has been framed on the bases of the Patel Act, that it has been framed by the legal experts of Government who did not divine or penetrate into the mind of the Minister himself who, I know, is extremely zealous for the introduction and the extension of compulsory primary education. But, so far as the wording of the bill is concerned, apart from the personality of the honourable mover himself, I would respectfully and most emphatically submit that there is not a word about compulsion, and there is nothing compulsory either upon the Government or any local authority to introduce it. I am looking to the wording of clause 8. Do you find anywhere, does the Honourable Minister find anywhere, one word to the effect that " it shall be the duty of any local authority, *except when called upon by Government* so to do ", that it shall be the duty of any local authority, of any municipality or such and such authority, such and such municipality, to introduce within its limits compulsory education within any particular or defined time limit? All that it does in a later clause is " if the Government "—the word " if " is there, a two-letter word " if "—if the Government calls upon any local authority to do so and if the local authority does not, then what the Government do may to enforce its wishes in that direction, if it wishes, namely, introduction of compulsory education. So the whole provision in the Act is based on the word " may " in clause 8. My honourable friend from Belgaum has already dealt with this question, but I only put it to you and the Honourable Minister, whether there is one single instruction—one single finding—reasoned finding—detailed finding—given by the Primary Education Committee which laid down the principle that the introduction of compulsion ought to be obligatory on the local education boards, I put it to you whether any of the suggestions have been embodied in the bill of 24 clauses that has been placed before this Council. The difficulty is clear —but my honourable friend the Minister in charge would tell us that every provision is made for compulsory education because there is a certain clause which enables Government to frame rules and force education. I think, Sir, the time to accept such undertakings—for all these hopes—is fast disappearing, because these are matters which depend upon the personality of each member of Government that comes and goes. If there is no clear and definite wording in the clauses of the bill, there will be nothing for the Council, when a new Minister comes in, to fall back upon—there will be nothing that any community or any portion of the population can do to call upon Government to do so. Therefore, Sir, my first complaint against the wording of the clause is that there is no definiteness in the wording of clause 8, the most important clause of the bill. I would therefore suggest to the Honourable Minister to bring in an entirely new bill bearing upon it the impress of the personality of the Honourable Minister whose oral address three days ago was far more definite,

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and declaratory and admirable though rather apologetic than the wording of this tiny and indefinite bill. You will see, Sir, that so far therefore as the recommendations of the committee are concerned, they have not been heeded. I know that the very first two lines of the statement of objects and reasons contain the words that "the bill is based upon the recommendations of the committee appointed for that purpose". I heartily wish it was so. I heartily wish I could support that statement. I heartily wish that the Honourable Minister in charge hereafter could support that statement by quoting chapter and verse. I cannot find there is anything in the bill to support that statement. I do not want to go into details. The main principle of the bill apart from compulsion is the creation of the district education board. That is disposed of in one single clause, without going into the detailed powers that may be given to that board, without even intending to follow the recommendations of the Primary Education Committee that went to considerable length in investigating the whole matter and even laid down in detail that the powers of the local boards must be more extensive than those of the present school boards of district local boards and municipalities. Though all these recommendations are detailed, the scheme that is submitted to the Council in the bill is contained in one clause, indefinite and undefined. If the powers of this education Board are not defined, I do not understand how the Honourable Minister can feel that the recommendations of the Primary Education Committee have been translated into his present bill. I may point out, Sir, that the Primary Education Committee was selected out of the members of this House—it did not consist of two or three members of this Council and the rest of the world—it was made up exclusively of members of this House headed by the President of this Council. That committee examined numerous witnesses and received considerable advice. I will not be guilty, Sir, of even self-boasting if I say that is a well-considered document worthy of respectful consideration ; I do so because I am confident that all Members of Government themselves admit that this report contains valuable information and is an important document. To set aside all that, to pay no attention to that committee's report, is a matter which will discourage in future any committee of this House coming into existence on the initiative of the Honourable Minister or any other Member of Government. It is with a feeling of pain and surprise that I rise to state my conviction about the imperfect nature, the incompleteness, of the bill that is presented to this Council. If clause 8 had established the principle, acknowledged the principle that Government on the 2nd of August 1921 did acknowledge, then the bill would answer its purpose, but I think, Sir, you have ruled that all these matters are for the select committee ; we must submit to that ruling, but I feel, Sir, that it will be difficult for any select committee to introduce compulsion by language when the present wording of the clause does not contain that principle. I feel most diffident, Sir, how this can be done. I believe it will be most difficult for the select committee to alter the wording of clause 8.....

The Honourable the PRESIDENT : Why should it be difficult for the select committee to modify clause 8 ?

Mr. B. G. PAHALAJANI : I am positive that the whole principle of the present bill as it should be is only in the preamble where compulsion is mentioned and nowhere in the rest of the bill where no such purpose or even a word of compulsion is mentioned. Personally, I think, Sir, that the matter of

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principle ought to have been acknowledged in the clauses themselves before going to the select committee.

The Honourable the PRESIDENT: I have followed your argument very closely but when you say that it will be difficult for the select committee to modify the principle, am I to understand that if you try to modify clause 8, then it will be such a transformation of the bill that when it comes on the report stage before the Council, I shall have to rule it out as a new bill altogether?

Mr. B. G. PAHALAJANI: If, when this bill comes back from the select committee, all the recommendations of the Primary Education Committee are embodied therein, the bill when it comes here will acknowledge the principle—the imperative principle—which at present is not acknowledged in the bill before us and is altogether absent from it.

The Honourable the PRESIDENT: I want to know whether your point of view would not be met by simply substituting "shall" for "may" in clause 8 in the select committee. How does your point bear on the principle of the bill?

Mr. B. G. PAHALAJANI: It won't be met because, as I have said, it is a most important matter that is involved. I am only placing my point of view though in a different way. My chief point is this, that point 4 being referred to the committee for purpose of laying down a definite programme and the committee having given a definite—quite definite—answer it seems doubtful whether that answer can now be embodied in clause 8.....

The Honourable the PRESIDENT: We will come to that, but let us now take the point at the very threshold of the whole question which you have raised. Clause 8 is as you say the pivot of the whole bill. The principle is there. The title of the bill is "A bill to provide compulsory elementary education". One would think from it that compulsion is the rule and voluntariness the exception. Your argument, as I understand, is that, instead of following the title, the bill by its provisions, particularly clause 8, makes the voluntary principle the rule and compulsion the exception. Is that your point, that the bill is a fraud when it by its title purports to legalise compulsion?

Mr. B. G. PAHALAJANI: It is for you to say so, Sir. Out of respect to the Honourable Minister, I refrained from saying so.

The Honourable the PRESIDENT: By "fraud", I meant it in the legal sense, not the usual.

Mr. B. G. PAHALAJANI: That is what I intended. The bill does not express the intention conveyed by the preamble.

The Honourable the PRESIDENT: Assuming your view to be correct, the title being there, it is open to the select committee to modify clause 8 by putting it as you desire and to make compulsion the rule and voluntariness the exception. That is entirely a matter of modification, and does not arise now.

Mr. B. G. PAHALAJANI: I am only placing it before the Council.

The Honourable the PRESIDENT: I have followed your argument very closely. At the opening of your speech, when you referred to it, I pointed out that it could be remedied in the select committee. After that assurance is it necessary to proceed with that point?

Mr. B. G. PAHALAJANI: I shall give up the point. I wanted to place before the House the imperfect nature of the bill, and that the select committee

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will have to mutilate it and bring it before the Council in a perfect form. This Council will be hardly able to recognise the baby that traddles back to the floor of this House.

The second point I want to bring to the notice of the Council is this: the Compulsory Primary Education Committee discussing the financial position of primary education says :

"(So far as India is concerned) Both Government and Local Authorities have, or had 'flexible' sources of taxation, *i.e.*, taxation which can be readily increased or decreased by a fixed amount. Government can increase the Income Tax or the Customs and Excise duties, while the local body can modify the rate of house-tax."

The paragraph discusses the likely source of income in India : but so far as the resources of the municipalities and local boards are concerned, it proceeds to state :

"There is the house-tax in Municipal areas, but the application of this tax to rural areas is not feasible, as the power of levying such a tax has been assigned to the Panchayats, and the amount realised which is not likely to be large, can be expended for other purposes. The Local Fund Cess could perhaps be raised within well defined limits, but the yield will not be very large. The other taxes which can be readily increased or decreased are the Income Tax, Customs duties and the Salt tax. All these taxes are reserved for the Central Government."

I may also draw the attention of the Council to the remarks made by the then Government Member in charge against the Patel Bill :

"One of the important duties of every municipality under section 54 (*p*) is to make reasonable provision for establishing and maintaining primary schools.....Well, here are at present powers which the municipalities possess. Why have they not been able to carry out those powers in the way in which they would like to do ? Because, as everybody here has admitted, of want of means.....for everything connected with primary education, there are so many wants, and their revenue is so limited that they do not find any other way out of the difficulty except to ask Government to come to their aid. Well, therefore, honourable members, and particularly representatives of municipalities ought to bear it in mind, that it will be impossible for municipalities to work out this bill if you leave it to them to raise funds for educational purposes under the powers given by the bill, namely, trying to raise a fund for educational purposes from the sources which are mentioned in section 59 of the Act."

These were the remarks made by Sir Mahadev Chaubal in 1917. Section 59 is the only enabling section which gives power to municipalities to levy taxes. It specifies insignificant taxes from which income can be raised. The Government of India has made the following declaration in a resolution in February 1913 as regards primary education being the first charge on the State :

"The proposition that illiteracy must be broken down and that primary education has, in the present circumstances of India, a predominant claim upon public funds represents the *accepted policy no longer open to discussion.*"

That is the policy that the Government of India have accepted, and that is the policy accepted by every local Government now since 1917. If law and maintenance of order is a charge on the public revenues, I ask whether the Honourable Government Member in charge of law and maintenance of order will ask a special provision to be made in an Act or law that funds be provided for his department. If we accept the statement of the Government of India as correct that primary education is a charge on the State, then clause 11 is unnecessary. Insertion of a separate clause will be necessary to the effect that it shall be the duty of *the Government of Bombay to provide for* compulsory primary education, and it shall be the duty of the Government of Bombay to do it within a particular number of years in particular areas. This is practically the suggestion which the Primary Education Committee placed before the Minister advocating that proper legislation should be taken in that behalf. And, Sir, unless those words appear, unless a certain definite undertaking is placed, on the record of a solemn Act, I do not think the intentions

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of the Government—the good intentions of Government—will not find a loophole to escape from the responsibility that *otherwise lies only in theory upon the Government.* Now, such definite words, such definite undertaking, must be put down in this bill and the Honourable Minister ought to have bound this Government, in this bill, to carry out that undertaking within a specific period. The Honourable Minister ought to have bound the Government to carry the undertaking beyond his life-time as a Minister, or beyond the life-time of this Council or beyond his life-time in this world. If law and police have to be maintained by the Government, whatever may be the financial circumstances or the means at their disposal, so has primary education to be maintained by Government, whatever may be the financial circumstances, and we want, Sir, the Honourable Minister to record in this bill, or in this Act when the bill comes to be an Act, the solemn undertaking of Government that it shall accept that charge of maintaining primary education, and that no departure from that principle would be allowed, and that definite charge must be created by actual words in the bill, that definite charge must be placed in the bill, with a certain definite programme laid down—a programme which the Honourable Minister had declared he wanted to place before the House on some previous occasion—for furthering and promoting primary education. That has to be acted upon, and I submit that this bill is so imperfect that, when it comes from the select committee to you, you will find many details have to be filled up which never perhaps were imagined before. I again repeat that somebody is responsible for the improper reading, or the insufficient reading, of the compulsory education committee's report. And, if that report had been carefully digested, it would have been seen that all the matters that were necessary for providing compulsory primary education in this Presidency were there. I therefore submit that, when it returns from the select committee, it will then at least bear the impress of the objects propounded by the Honourable Member in his speech with which this bill was placed for its first reading before this Council.

The Honourable Mr. H. S. LAWRENCE: Mr. President, at the behest of the Honourable Minister for Education, I rise to offer a few remarks chiefly on the financial aspect of the question now under consideration. But, before I come to that, I would ask permission to digress for a moment into this question of the interpretation of the report of the Compulsory Education Committee which the last member, the honourable member from Sukkur, has placed before this House. Sir, I hope that every honourable member of this House has thoroughly studied this report; if he has not done so, he should study it with the greatest attention. For my own part, I can only say that I have read it in a very different sense to that in which it has been taken by the honourable member from Sukkur. I understand the honourable member from Sukkur to say that the Honourable Minister has disregarded that report in the preparation of this bill. I think that is a very wrong interpretation of the report. I would only quote one sentence from the report. I understand that the honourable member from Sukkur says that absolute, universal compulsory education was required immediately.....

Mr. B. G. PAHALAJANI: I say it must be carried out in several stages.

The Honourable Mr. H. S. LAWRENCE: And should have been included in the bill. Well, Sir, I think the pivot of the report is contained in these three lines:

"We suggest that the local educational authorities should be empowered to introduce compulsion into villages which have no schools at present within three years after a school has been started in the village if funds permit."

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Now, Sir, if that does not leave option to the local educational authorities, I do not know what words mean.

Mr. B. G. PAHALAJANI: On what page is it?

The Honourable Mr. H. S. LAWRENCE: Page 22. It also renders the progress dependent on funds, which is an obvious necessity and a fundamental condition. But, Sir, if I were able to lift the load of pessimism which oppresses some of the honourable members here in regard to the financial question, I should indeed be proud and gratified. But I am not sanguine, for some share the apprehensions of the honourable member from Kaira, who, like the famous wife of John Gilpin, that citizen of London of credit and renown, has a frugal mind. Nothing will induce him to agree to any additional taxation on any terms whatever. But, Sir, when we hear of Government being called upon to produce all the funds necessary for meeting the cost of compulsory education, we must remember the change recently effected in the financial position of the district local boards. Means of taxation, which previously were not open to them, have been placed at their disposal. If, instead of supplying revenue from the provincial exchequer, we hand over to district local boards certain resources which were previously reserved to the provincial Government and give them full permission to raise their revenue by that means, do we not assist district local boards as effectually as we could by subventions from the public revenues?

Now, Sir, it is a matter of indifference to the taxpayer whether taxes are raised by Government or raised by the local authorities. As one honourable member from Sind pointed out, it is no use talking about further education, which must necessarily mean further expenditure, if you do not provide the means of getting it. On the other hand, the burden of the taxpayer is not affected, whether it is the district local board which imposes the levy or the Government; in either case the taxpayer has to find the money from his pocket. But there is a further point of view, Sir. The power of self-taxation is the foundation of self-government in England and in every country in the world, and it is by the readiness of local authorities to undergo self-taxation and to accept the sacrifice that that entails, whether in this country or in any country in the world, that their readiness for self-government is estimated, and to have that opportunity now is, I submit, a point of very great importance to this country. I do not suggest for a moment that the fact that the Government have accepted, as they do in this bill, the liability for doubling the cost which local funds contribute, is any sign of generosity on the part of Government. There is no question of generosity or niggardliness, one way or the other. The money has to be found either by the local authorities or by the Government, and it comes out of the same source.

This report, Sir, is, I venture to say, a public document of the greatest value, for which this Council is deeply indebted to the committee over which you, Sir, presided. We find there a faithful picture of the difficulties which we have to encounter and constructive suggestions as to how those difficulties should be overcome, and ultimately it guides us gently, but firmly, to the inevitable conclusion that we cannot introduce compulsory education on a wide scale without very considerable increases of public taxation. There is one other method no doubt possible which has been suggested by the honourable member from Satara who I understand took exception to the present system of the appointment of schoolmasters on what he considers to be an extravagant

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scale of salary. It is quite conceivable, Sir, when one follows up his suggestion that it may be possible to secure schoolmasters living in their own villages who would be content, as I believe they were content twenty years ago, to educate the village children on a very much reduced cost. That power again, Sir, the power of retrenchment and of making the funds available to carry further, will be placed by this bill in the hands of the school boards. That, Sir, I submit is a power of the greatest advantage. On the one hand in recent years we have been pressing forward centralization and efficiency in this department as in other departments, and there is no doubt whatever that that has entailed very much heavier expenditure. It is possible that this Council when it carries out its wishes on a wider scale may be able to adopt a simpler system of administration, which may have its natural results in every department. Sir, I suggest the first department in which that desirable consummation may be achieved may be in the Education Department and through the agency of the local authorities which this bill proposes to set up.

Another form of pessimism has been the reluctance to take responsibility for the administration of this education and a certain carping criticism of the department that is now to be handed over to the local bodies. Sir, I think the Director of Public Instruction was perhaps unduly modest when, as I understood him, he criticised the value of the department the control of which is being so greatly surrendered. Sir, I do not think that a department which controls some 25,000 schoolmasters and gives education to, I think, seven and a half lakhs of students, which carries out duties on such an enormous scale without any appreciable complaint efficiently, quietly, sympathetically, I do not conceive that that department has anything to apologise for. I entirely agree with the principle of this transfer of control. If Sir, I may be permitted a personal word I may add that it was one of the principal recommendations of a committee over which I had the honour to preside in 1915. When one hears that this bill is a retrograde measure, I would suggest that there is another standpoint from which it may be regarded. Indeed, Sir, this Council is securing through the district local authorities control of a remarkably efficient institution and Government have no cause to depreciate its value when handing over its control to this new authority. A good deal of criticism has also been directed towards the constitution of the school boards. But Sir, I desire to offer my opinion for what it is worth that the school board is the replica of the district local boards and that there is no cause for apprehension that the important powers possessed by the school board can be exercised in any way at variance with the policy desired by the district local boards from which it derives its authority. Some honourable gentlemen suggested that it might take some time before the district and the school board might come into power. That, Sir, is a question for the consideration I believe of the select committee examining the Local Boards Bill and there is no reason, Sir, which I am aware of why the arrangement should not be made to introduce the district local boards and the school boards under this new system in the coming year.

I do hope, Sir, that if honourable members will look at this bill in its broad aspect, they will realize the enormous power for good and efficient service to their country that will be conferred upon the local boards and the local educational authorities if they adopt this bill.

Mr. E. M. PROES: I move the closure, Sir.

The Honourable the PRESIDENT: I accept the closure.

*After Recess.*

The Honourable the PRESIDENT: Order, order.

The Honourable Dr. R. P. PARANJPYE: Mr. President, I am exceedingly grateful to the large number of members of this Council who have welcomed the bill—at least the main principles of the bill. The great interest that has been taken in this bill is clearly shown by the large number of members of this House who have spoken on the bill. A large number of them have made their valuable suggestions many of which will be considered in detail by the select committee. I shall only refer, Sir, to a very few of the points which have been made by some of the honourable members, and I shall try to classify them under various headings.

There are a certain number of members who might be regarded as practically entirely opposed to the principle of compulsion: they are not many, but only a few. The first honourable member to speak—I do not see him here—was the honourable member representing Ratnagiri district. While not actually opposing the bill, he practically opposed every clause of it. From the remarks that he made it appears that the word 'Government' was on his brain. Wherever there was the word 'Government' in any clause, he thought that that clause ought to be altered. Now, I do not think that simply because the word 'Government' appears in any clause, we ought to object to that. We must see what that clause is and why the word 'Government' has been introduced into that particular clause. One or two others also opposed the bill practically wholesale, and one of those members was the honourable member for Surat district. I cannot help having a feeling of admiration for the whole hearted way in which he opposed it. I always like to see a die-hard in all his true colours, and the honourable member for Surat district was thoroughly opposed to the principle of compulsion, nay, even to the principle of education itself. Then my honourable friend from the Panch Mahals was also lukewarm in the welcome that he gave to this bill: in particular he was opposed to that portion of the bill which refers to the education of girls. Then there is my honourable friend, the member for Poona district, and he was also almost wholly against the bill, if it was to bring universal compulsion. He appeared to think that if compulsion is to be introduced at all, it should be introduced only in cities, towns and bigger centres of population. Now, to this, the honourable members specially representing the backward classes legitimately object, saying that that would only mean giving food to those who have, and refusing it to those who have it not. I feel that, while certain opportunities are open to residents of towns and comparatively large centres of population, they are altogether non-existent in the case of people in the smaller villages. Of course one can see practical difficulties in the case of the introduction of compulsion in very minute villages. If a village cannot possibly, even by compulsion, produce even fifteen or twenty children, it would be very difficult to have a school and therefore compulsion in that village. But if there is a village which, at least under compulsion, can produce 20 or 25 children, it is, I submit, a very proper place where we shall do something to bring education to their doors; and it is from this point of view that my honourable friend from the Belgaum district has been so insistent, and I think rightly insistent, that in any programme of compulsory education we should not neglect thes

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villages. After all, the villages form the backbone of the whole country, and it is no good restricting our efforts to the larger centres of population, because they do not fully represent all the people of this country. Therefore, although we can understand that there may be practical difficulties, still it is the part of statesmanship to see how those difficulties are to be overcome, and not rest satisfied with the fact that those difficulties are existing and that we should do nothing to remove them. I do not believe that the large opinion of this Council nor the large opinion outside this Council will agree with my honourable friend from Poona district in his contention that we should confine the operation of this bill to towns and comparatively large centres of population.

While there are these three or four honourable members who are practically opposed, more or less, to the principle of compulsion, there is a certain number of my honourable friends who have practically opposed this bill, because they think that it does not go far enough, and among these I might put my honourable friend the nominated member from the backward classes from Satara, the honourable member for Nasik district, for Sholapur district, and also to a certain extent my honourable friend representing the depressed classes. Now, while I understand that it may possibly be complained that this bill does not contain everything that may be conceived with regard to compulsory education, still I submit that this bill provides the machinery for reaching that goal within a very short time. I have already explained in my speech that Government, as a whole, as at present constituted, accept the programme on the broad lines laid down in the Compulsory Education Committee's report, and I do not think that any Government can do anything more than that. It is not possible for any Government mainly constituted on elective principles, whose councillors are elected for three years only, to get itself committed by any legislation so firmly to any one particular policy that it cannot be overthrown afterwards. I have already said in my speech that I not only expressed my own opinion, but expressed the opinion of the whole Government as at present constituted. I cannot say what will happen to the Government or to the Legislative Council eight years hence. If we want to have such a binding rule upon the Bombay Government and the Presidency of Bombay, it ought to come from outside. It may very well be that if Parliament passes any law of that nature, then that will be binding upon the Government, and we cannot do anything against it; or it might be the Government of India passing a law that may be binding upon us, and we cannot change it. But if a programme is to be laid down, a programme which is to go on for a score of years, I do not know in what way it can be made binding on the Government for all that time. This Council might lay down a programme of that nature. But, remember, while laying down that programme we shall have to make provision for a large number of other measures. For instance, if we are to have a programme for ten years, we must have certain new taxation gradually raised. We must have some kind of taxation this year, possibly another kind of taxation next year, another one in the third year, in the fourth year, and so on. I put it to the Council whether they can pass an Act relating to taxation which is to come into effect eight years hence. I am not a lawyer, but I would ask members of this Council whether it is possible to lay down a programme in this cut and dried manner, every step of which shall be complete, and which cannot be upset afterwards. If such a thing were possible, I submit that this one Council might once for all determine the progress of this Presidency for a

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hundred years to come, and lay down a programme like this. What I would like to say is this: this is our policy at present, and we have no intention of altering it, and the guarantee of that policy is in the hands of the people who control the persons who have the reins of Government in their hands. The policy has been laid down in the speech with which I opened the first reading of this bill. It is a speech not by the Minister of Education personally, but it is a policy which I have laid down on behalf of Government, and that, I think, is as solemn a declaration as can be made by any Government which is constituted on the representative principle. Whether that policy will be carried out afterwards by the Government that will come into existence at that time, or the Legislative Council to which that Government is wholly responsible, I cannot say. I do not think it is possible for us to say whatever any new Council may think of our present policy, that that policy will be for ever binding upon it. I have already stated that as far as this Government can bind itself solemnly and as far as it has got the support of the present Legislative Council, this policy will be decidedly followed, and I do not think that any Government or any legislature can introduce an Act, and bind all future Governments in perpetuity.

Now, Sir, I think that there is another class of supporters who have supported this bill only to half the extent, that is, only so far as the education of boys is concerned. My honourable friend from the Larkana district and one or two other honourable members also have opposed the principle of compulsion so far as girls are concerned. Now, the programme that is laid down in the report of the committee does not apply immediately, or even during the course of ten years, to all girls in this Presidency. I have already expressed the hope that, when the education of boys is widespread and the compulsory principle has been applied to them, we shall get public opinion more and more on our side, so that the application of the principle to girls will be much easier, and, as I have said already, we hope that it will be possible to apply the principle to girls as soon as possible, and all steps will be taken by Government in that direction. Things that were impossible a few years ago have become possible now. The progressive spirit in the Moslem community itself, I observe, is not unanimous on the point and I welcome in this connection the assurances of my honourable friend from Bombay. I hope that any opposition that there may be to the principle of compulsion in the case of girls among Mahomedans will disappear. I myself consider, Sir, that the application of the principle in the case of the education of girls will be far more efficacious than in the case of boys. It is a trite saying that the hand that rocks the cradle rules the world. In fact, I might say that where the father is educated the children may remain uneducated, but where the mother is educated, there will not be a single case where the children will remain without education. I thus attach far more importance to the education of girls than to that of boys. However, I am quite certain that my honourable friends' whole-hearted sympathy and enthusiasm will by and by modify what little opposition there may be among Mahomedans to the application of the principle of this bill to girls.

Now, Sir, a great deal has been said about clause 8, and my honourable friend from Sukkur has also taken objection to it. I do not really know what objection could be taken to that. If it were only a case of interchanging the second into first, I might possibly say that there may be something in it. But the first part calls upon the local bodies to put their houses in order first of all. I think that is a more politic way of doing it. We do not want to tread on

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their toes violently. We call upon them to do the thing themselves; if they do not, then we take power to make them do various things—first of all to frame a scheme, then to carry it out, and then to continue to carry it out. If they fail in doing any one of these things, Government reserve to themselves the power of having it done paying for it and recouping its expenditure in the manner laid down by rules in that behalf.

I am told that there is no word "shall" in clause 8. The answer to that I have already given when I said that it means laying down a principle—a definite principle. If it was a question of introducing compulsion just at this very moment all round, then the word "shall" would have been quite appropriate. If we say that education shall be made compulsory in any and every local area and Government shall ask any local authority to make out a scheme at this very instant, then it may be possible, but when that programme is to be introduced in the course of ten years, then we obviously must leave to Government or the local bodies the choice to a certain extent.....

Mr. B. G. PAHALAJANI: Where is that limit of ten years laid down in the bill?

The Honourable Dr. R. P. PARANJPYE: The programme has to be carried out gradually. Government therefore will have to select the places where introduction of compulsion is to be commenced in the first year, then the places for the second year, then the places for the third year and so on. Should there not be any choice left to Government in this manner to see what places have got to be selected this year, the next year and the third year? If you were to say that compulsion must be introduced all over the country at once, what would have to be done is to prepare a list of these 26,000 villages and print it in the form of a schedule to this bill—it must be put in the schedule to indicate that so many villages should be taken up the first year, so many the next year and so many the third year and so on. Frankly, it was not possible in the time that was at our disposal, during the course of a few days or a few weeks that were at my disposal and at the disposal of the legal advisers of Government, to draft a bill of this kind. I further feel that it would not have been proper to bind down in this definite manner that such and such village should have compulsion at the end of the year 1930. Then, if we had laid down that programme, that programme would have been practically useless because we cannot say what circumstances may arise at the end of ten years. All that we can say is that we have laid down a Government policy, that during the course of ten years that programme will be carried out and the actual steps of that programme will be carried out as the funds at the disposal of Government, the actual demands of local bodies and various other circumstances permit.....

Mr. P. R. CHIKODI (Belgaum District): Have Government laid down a definite programme anywhere in the bill?

The Honourable Dr. R. P. PARANJPYE: That is the policy laid down by Government. I have said so three times. I do not know of any legislation whereby you can bind your successors so definitely.....

Mr. P. R. CHIKODI: It is not in the legislation anywhere.

The Honourable Dr. R. P. PARANJPYE: About this point of the time limit, several members have spoken. My honourable friend from West Khandesh also has spoken in the same manner. What I have said so far has been

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on bahalf of Government; it remains for the future legislatures and those who will hold the reins of Government in times to come to see whether the policy is carried out in its entirety or whether any modifications are desirable. So much as regards the general objections to the bill.

I now come to the few objections made by some other members who have spoken. My honourable friend from the Bijapur district said that under these clauses various school boards would make various schemes and our educational system would lose its uniformity. If I am not wrong, that was one of his points. Now, I put it to him and also the honourable members of this House that it is one of the objects of this bill to allow educational freedom to various local bodies. In any case, Sir, there is no finality in educational matters, there is great room for educational experiments. In fact although we have encouraged private education bodies according to our Grant-in-aid Code to propose changes in the present curriculum, our only regret has been that there has not been so much interest shown by the educational institutions in our Presidency or in our country and people are not coming forward to make experiments. The Educational Department has never been opposed to any proper educational experiments if any one wants to make them, but by allowing this freedom to our local bodies to have their own educational system, we may possibly find that various bodies will be making various experiments unhampered by any cast-iron rules and regulations and it is in this way that we want to encourage people to make experiments for the common good, and I hope therefore that the Council will see that this want of cast-iron rules in the language of the clause, instead of being a fault, is as I believe, one of the great merits of this bill.

Then, Sir, a great many members have talked about the constitution of the school boards. We were told that in the case of larger municipalities, the school boards will supersede the present school committees. In the case of those large municipalities which will be allowed to manage their own educational affairs, I think rather that the school boards to be constituted will not supersede the present school committees, but that those committees in fact will evolve themselves into the new school boards. Those school committees have a rather defective constitution at present. They are appointed out of the members of the body itself; it may happen that a body contains no proper personnel for the school committee, it may be necessary for that school committee to have a representative, say, of the depressed classes and there may be no member of the depressed classes on the local body itself....

Rao Bahadur S. D. GARUD (West Khadesh District): They can be appointed under section 31.

The Honourable Dr. R. P. PARANJPYE: They can only be co-opted to a certain extent, but I would point out that up till now that right has very rarely been exercised by local bodies, and therefore the new constitution of the school board in the case of these larger municipalities will be a better constitution. You will find that these school boards are to be elected, except for the three nominated members, by the local bodies themselves, and then we lay down a direction that such a school board shall include men experienced in education, representatives of minorities and women. It means that if the local body has got people of this complexion on its board, it is obvious that preference will be given to those men, but if there are no men of educational experience or there is no representative of the depressed classes on the original appointing local body, then the local body would have to go out of its own body

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to appoint such persons. I do not therefore think that this section is really so bad as it is thought to be. If the personnel of the local body itself is properly constituted and it contains proper men, then it need not go out of its personnel for appointment of the school board and the opportunity we are now giving for the school boards to be constituted of the right type of men will, I feel confident, be fully availed of. The liberty we are now giving to school boards as regards recruitment of teachers will be enlarged under this bill. Government will have nothing to do with the recruitment of teachers. At present teachers in city municipalities are supposed to be Government servants—they are supposed to be lent to those school committees. Henceforward in the case of new teachers—of course we shall have to safeguard the interests of our teachers who are already in service, but so far as recruitment of new teachers is concerned—there will be perfect independence allowed to the new school boards. In order to exercise these wider powers, properly constituted school boards will be necessary.....

Mr. DIPCHAND T. OJHA (Karachi City): Will they make any contribution towards pension or provident funds ?

The Honourable Dr. R. P. PARANJPYE: They will of course have their own provident or pension fund for the teachers they engage ; in the case of persons who are already in Government service, they will contribute to the pension fund, because you cannot dismiss all these 25,000 teachers all of a sudden ; but in future when larger responsibility is to be given and when the local bodies are to be compelled to introduce compulsory education later on in order that this compulsory education should be possible, we must obviously let the school boards contain representatives of all classes. And you will find also that the school committees, although many of them are doing very good work just at present, are in several instances not properly constituted. I know these elections, most of which are conducted on party considerations. In one particular case, for instance in the election of the school board in the Poona municipality, there were two parties, there was much 'give and take' and the vote for a candidate was given on his undertaking to vote for a particular thing in favour of the party that supported him. The result was that a man who could not even write his vernacular was elected to the school board in preference to a distinguished educationist like the late Prof. Limaye of the Fergusson College. I just wanted to show how elections are being carried out. The constitution I have now proposed will ensure at least that some persons conversant with educational questions will be on the board, while there will be others also who know the needs of the area. I do not agree with the observation of the honourable members that the constitution of the school board is unsatisfactory. Some members stated that the number is too small. I leave that point to be decided by the select committee and in the second reading. The committee which is practically to carry out executive functions of this nature should not be large. If it consists of 30 or 40 members, as it would have to be if every taluka has to be represented, if every small municipality has to be represented, and every minority has to be represented, I do not know how the work of the committee will be carried out properly. While we should see that the committee is not too small, we should also see that the committee is not unwieldy. Even the standing committee of the Bombay corporation, the legislation about which we passed the other day, consists of 16 members. For the work that is contemplated to be done by the school committee, it should not be more than 15. The smaller municipalities cannot all expect to

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be represented on it. There are municipalities in towns with a population of 5,000 or 6,000, while there are taluka areas containing 50,000 and 60,000 or even a hundred thousand people. If the talukas will have a representative on the board, I do not think it proper that these small municipalities, because they happen to be municipalities, which are after all glorified villages having interests of a rural nature, should all be represented on the board. The constitution as framed in the bill is as a whole satisfactory, although detailed changes can be made in it in the select committee. (An Honourable Member: What about minorities?) The minorities will not be the same in all districts. In some districts like those in the Deccan, Karnatak and Gujarat the depressed classes are numerous and they will have to be represented in every one of these districts. In some districts like Ahmednagar, Christians are in an appreciable minority, and it will be necessary to have a Christian member. We cannot lay down all these details in the Act, as each will have to be considered separately. That is why all these details have been left to Government.

Then, Sir, the honourable nominated member for the backward classes from Satara raised the point that election to local bodies in many cases has already taken place under the old Act, and consequently they cannot have school boards, according to the revised constitution, until their term has expired. I do not know whether lawyer members of the Council accept the contention that the old local boards will not be competent to elect a school board according to this bill. But it is quite possible in the select committee, and in the second reading of this bill or the Local Boards Bill, to introduce a provision that as soon as these bills are passed, the local boards and the school boards should be formed according to the reformed constitution. This suggested itself to me even before the honourable member made this suggestion, and I suggested to my colleague, the Honourable Minister for Local Self-Government, that the liberalised constitution must be brought into operation as early as possible.

My honourable friend, the representative of the depressed classes, stated that the minority which is intended to have a representative under this clause is the Brahmin community which is in a numerical minority everywhere. I wish to impress upon him that the interest of Brahmins so far as education is concerned is quite different from that of the other classes, and especially the depressed classes. This particular clause is solely for the benefit of those classes who cannot come by election. If, however, it comes to pass at any time that no Brahmin is elected to the local body, then I do not think that my friends, the representatives of the non-Brahmin communities, will object to see a Brahmin get a seat on the school board in virtue of the clause about minorities. I assure the honourable member for the depressed classes that the interests of those classes are very dear to us and that this condition about the representatives of minorities has been inserted in their interest. I do not think I need talk any more about the constitution of the board. But one thing I should like to mention is that, although the school boards have been given independent powers, they are generally subordinate to the parent body. It is the case in every other constitution. On general principles they would be subject to the decision of the local bodies concerned. In certain cases the power of appeal is given to the local board. Practically the whole control will be in the hands of the parent body which controls the purse strings. But in the detailed administration you cannot expect a body which is not elected

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mainly for the purpose of education to have this control. Also the widest aspects of the policy will be in the hands of the Educational Department.

A good deal has been said about the financial clauses of this bill. I felt that the explanation that I had given ought to have been sufficient to allay the very wide fears that were entertained when this clause was read first. After all, the Honourable the Finance Member and the honourable member from Sind also rightly said that if taxation is necessary for the educational expenditure, it is a very minor question indeed as to who will impose the taxation, whether the local body imposes it or whether Government imposes it. (An Honourable Member: It is better if the local body imposes it.) In certain cases it may be that the local body may more profitably impose it; in certain other cases, particularly if education is widespread on a uniform basis, it may be that Government may be a better agent for the imposition of taxation. The tax-payer, the ordinary man in the street—or shall I say the ordinary man in the field—considers how much money goes out of his pocket in order that the educational progress can be achieved, and he will not very much mind, when the tax collector comes, whether it is imposed by the local body or by the Government. I do not think it is a matter of very great importance. I know my honourable friend from Satara proposes that Government itself should impose this 2 anna cess by increasing it from the present 1 anna cess instead of the local body. My honourable friend probably contemplates that by this means the local body will escape a large amount of odium that will come upon it on account of the imposition of this cess. Well, that may be all right for the honourable member, who is probably a member of a local body. (An Honourable Member: He is not one.) I hope he will be one soon. But, Sir, it is not contemplated that this anna cess will be raised to 2 annas immediately all over the Presidency. The programme is to be carried out during the course of ten years, and we do not want, unless the local body desires it itself, that this 2 anna cess should be raised immediately from the passing of this Act. They can raise it by stages according to the conditions of each local body. Then, Sir, there was another honourable member, the honourable member from Belgaum, who appeared to think that this financial arrangement was rather one-sided—that Government pays a certain portion and the local body has to make up the balance. He appeared to think that a better arrangement would have been that a local body should be asked to pay a fixed contribution and the Government should make up the balance. I, however, think that you have got to see in whose hands the final management of the schools remains. Under this bill, and according to the rules to be made under this bill, the management is to be in the hands of the local bodies.

Mr. P. R. CHIKODI: In the hands of the school board.

The Honourable Dr. R. P. PARANJPYE: Whether it is in the hands of a district local board or in the hands of a school board subordinate to it, it is in the hands of a body different from Government. We have to provide for an economic management. It is not very pertinent to the question, but I may point out that a great difficulty has arisen in the case of the educational arrangement which Government has made in the case of the Bombay municipal corporation. The control is in its hands and Government contributes to it without having a word to say as to the way in which that expenditure is to be incurred. When these bodies come forward with a scheme, they should do so with a proper circumspection. They can easily forward a scheme to Government and

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say that the expenses will be so much per head. That will be a proper way of making a scheme. But when they expect an expense on a child of, say, Rs. 18 per annum and send an estimate of Rs. 18 per child, if it comes to Rs. 25 afterwards, they will have to pay the balance of Rs. 7 on each child, because it would be due to their want of circumspection in estimating the cost. I feel, Sir, therefore, that this financial arrangement is proper. In the bill we have laid down the legal liability of Government to pay half the recurring cost in the case of a municipality and two-thirds the recurring cost in the case of a local board, when compulsory education is introduced. But it is nowhere laid down that it is the only contribution that Government shall make. For instance, if the Legislative Councils of the future can find more money in the public coffers, they can ask Government for bigger contributions to local bodies in the case of necessity. Nowhere is it laid down in that clause or any other clause that Government shall not pay a bigger contribution.

Mr. P. R. CHIKODI: Two-thirds of the estimated expenditure or of the actual?

The Honourable Dr. R. P. PARANJPYE: Two-thirds of the cost of the scheme. That scheme should be properly made and the estimates should not be exceeded. We do not want the estimates to be exceeded, because they will make the whole management absolutely irresponsible. We cannot go on in this manner on irresponsible estimates.

My honourable friend from Ahmedabad district wants an educational cess. If he consults the Local Boards Bill, he will probably find that this is a cess which could be legitimately imposed by the local bodies themselves if they desire it. They will probably have no objection to imposing an educational cess in order to carry out education. But that may be possible in one case and may not be possible in another case. Therefore, you cannot lay it down as something obligatory all over the Presidency.

Mr. President, the honourable member for the depressed classes took some hypothetical exception to clause 23, about the power to exempt certain classes, and he appeared to think that this clause will be made use of in order to keep education from the depressed classes. Now, there has been no idea at all of this nature, and I believe no Government worth the name—certainly not the Government as at present constituted—will allow any scheme to go through which makes an exemption in the case of the depressed classes. It is particularly for the backward classes that we want to introduce compulsion. The advanced classes practically do not want it. About 80 per cent. of their children are already going in for education and Government is keen that the backward classes should improve themselves by means of education. This clause, as I said in my opening remarks, is put in order to cover certain exceptional cases that may arise. For instance, in any scheme in Sind or in villages where the whole population is practically Mahomedan, it may not be possible to have any school other than the Mulla school for the purpose of carrying out compulsion and you cannot obviously compel a Hindu parent to send his child to attend a Mulla school, where the study of the Koran is enforced. It is for the purpose of overcoming such practical difficulties that that clause has been put in. It is not intended to keep any backward classes or the depressed classes away from the benefits of education. I do not wish any exemption at all to be allowed in favour of any backward classes; never. In fact, I do not wish to accept even the recommendations of the committee about the facilities to be given to the children of the depressed classes in attending schools. I may

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tell him that only a few days ago I had an offer of Rs. 10,000 for the purpose of building two primary schools but the donor said that these two schools should not be open to the children of the depressed classes. I said if that was the understanding, Government is not going to accept the offer. I may tell the honourable member that Government have not the least idea of using this clause in order to hurt the feelings of the depressed classes. If at all we want to help the depressed classes it is in order to raise them from their present depressed condition so that the depressed classes may no longer remain depressed. I think my honourable friend will take away from his mind all the ideas of a sinister motive on the part of Government or educational authorities in introducing a clause of that nature.

My honourable friend, the honourable member for Poona district, asked what about the leakage in education. Now I would point out to him that there is this leakage because there is no compulsion. At present children attending infant classes go as far as the first or second standard only, and there is no way to compel them to remain in school for five years, that is, up to the fourth standard. It is because we have felt that a large amount of money which is spent on account of these children is wasted, because the amount of education they get in the first two or three years is not effective in removing their illiteracy or stopping them from relapsing into illiteracy, that we wish to make five years the minimum schooling under this compulsory education bill.

Dewan Bahadur K. R. GODBOLE : I was instancing wastage in the case of boys who study up to the fourth standard.

The Honourable Dr. R. P. PARANJPYE : I believe that ordinarily a boy who has been in school for five years and has passed the fourth standard is not likely to relapse into illiteracy. There may be such unfortunate instances here and there occasionally but as we are advancing in our democracy he would have to read a large amount of political literature when votes are asked, and I do not think that if a boy leaves his school after the fourth standard he will relapse into illiteracy. There is no doubt that at present illiteracy is very great, and in any case it is for the purpose of removing this illiteracy that this measure is introduced.

The Honourable the PRESIDENT : The Honourable Minister will not, I hope, go any further into that question of leakage.

The Honourable Dr. R. P. PARANJPYE : There is finally, Sir, the complaint about the rules. What I said already is that the rules are to be made on the broadest possible lines. There will of course be a large amount of freedom which will be left to the local bodies, and I do not think when the rules will come out the members of any local body will feel that these rules do materially restrict the responsibilities and duties of these local bodies and the school board, but certainly some rules have got to be made. It would not be possible to include all those rules which will be applicable to all parts of the Presidency without any change. It is therefore for that purpose that the rules are to be made. If however the select committee finds that certain broad principles can conveniently be embodied in these rules, I should have no objection to any such modifications if they are proposed. Government will lay down the broad lines of those rules and the local bodies will make their own detailed rules to suit their own separate purposes. As I said, the select committee can go into all these details. I say on the whole I am satisfied with the welcome that is given

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to this bill. But I might, Sir, in one sentence, refer to the complaining note about several of the clauses—the cry of complaint that has been made by several honourable members. They appear to feel that everything should be done by legislation and by this bill, and I submit, Sir, that even if the bill be the most perfect of its kind it will not achieve everything that we want unless there is popular sympathy and popular demand behind it. No legislation will achieve any public object if the public does not support whole-heartedly such legislation. The bill can be altered by the select committee but the Council will have to keep a close eye on the educational progress of this country. I submit that this bill provides only the necessary framework of which the necessary details can be fitted in by the local bodies themselves. But it must be understood that on a proper system of education depends our country's advance. We have enfranchised large numbers of people of this Presidency. As was said about England by a distinguished English statesman, in this country also we must educate our masses. This bill, if properly worked out and carried out mainly by the enthusiasm of the people in all parts of the Presidency will do something to achieve that end. On educational progress depends our complete national progress and our Council also will to a great extent justify its creation by its work in this educational progress. On the whole it will be agreed that this bill has something to do to attain that end. Hence Government as a whole thought it best to bring forward a bill of this nature even in times of the prevailing financial stringency; Government as a whole thought that such a step ought to be taken, that sacrifices ought to be made and it is for the Council to say whether they will make these sacrifices and do this day-to-day work as contemplated by this bill when it goes to the select committee and when it will emerge from it. I have great hope that this Council will pass, Sir, the first reading of this bill. (Loud applause.)

Bill read a first time. Question put and agreeed to.

The Honourable Dr. R. P. PARANJPYE: Mr. President, I move that this bill be referred to a select committee consisting of 18 members, of which seven will form a quorum and that the report be submitted before the next session.

Question put and agreed to.

The Honourable Dr. R. P. PARANJPYE: I move that the select committee do consist of the following members:

The Honourable Khan Bahadur Shaikh Ghulam Hussain
Mr. J. C. Ker
Mr. F. B. P. Lory
Rao Bahadur G. K. Chitale
Rao Bahadur R. R. Kale
Mr. B. V. Jadhav
Mr. P. R. Chikodi
Rao Saheb D. P. Desai
Khan Bahadur D. B. Cooper
Mr. B. G. Pahalajani
Khan Bahadur S. N. Bhutto
Rao Saheb P. G. Halkatti
Mr. D. D. Gholap
Khan Saheb A. M. Mansuri
Mr. Mahomed Salahuddin K
Mr. S. T. Kambli

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Rao Saheb Harilal D. Desai, and the Minister in charge of the bill.

Rao Bahadur S. D. GARUD : I propose that the name of Rao Bahadur Kale be omitted and the name of Sardar Mutalik be inserted instead.

Sardar V. N. MUTALIK : I do not want to serve on the committee.

Rao Bahadur S. D. GARUD: Then I beg leave to withdraw the amendment.

Amendment by leave withdrawn.

Rao Saheb D. P. DESAI : I propose that my name be omitted and Mr. Gandhi's name be inserted instead.

The Honourable Dr. R. P. PARANJPYE : If the honourable member himself wants the change, I accept the amendment.

Amendment carried.

Question as amended put and agreed to.

[Proceedings interrupted under Standing Order IV : 2 (4).]

**Appreciative Reference: Mr. D. R. Norman, Secretary, Legislative Council.**

The Honourable the PRESIDENT : Before we proceed to the next item on the agenda, the Council will allow me to inform the honourable members that I desire to make my warm acknowledgments to Mr. Norman, the Secretary to the Legislative Council, who is leaving us shortly in a day or two and who will be succeeded by Mr. Dadiba C. Mehta, Joint District and Sessions Judge of Poona. Mr. Norman took up the duties of the office of Secretary when this Council was inaugurated, and the responsibility, heavy as it was, of initiating and organising system in the office fell upon him personally, and from the very beginning down to now he has shown, as I know by my intimate connection with him, organising capacity of an excellent character. (Hear, hear.) More than that, he has co-operated with me from the very beginning, from the moment that I took up the responsibilities of my office, in a whole-hearted manner; he has been ever loyal, ever devoted, always sympathetic, and as anxious as myself to secure the independence of the Legislative Council and to constitute, in the midst of difficulties, its office as a self-contained organisation. (Hear, hear.) We have not yet attained that ideal : we are striving towards it; and I acknowledge my debt of gratitude to Mr. Norman for helping me in striving for that ideal. I do not wish to say more than this, namely, the office of Secretary is not a bed of roses. But if I have succeeded in winning your confidence to any extent, may I take the liberty to say that it is due, if not solely, certainly partly, to the complete harmony with which Mr. Norman as the Secretary to the Legislative Council has worked with me ? (Hear, hear.) To me separation from him is a personal loss. I think I may say I have won his affection as he has won my affection. I part from him with regret, and all that I can say from the bottom of my heart is summed up in this one sentence: Mr. Norman has been a model Secretary, and his successor, Mr. Mehta, I hope, will prove his worthy successor. (Cheers.)

## A BILL TO IMPOSE A DUTY IN RESPECT OF ADMISSION TO ENTERTAINMENTS (BILL NO. XX OF 1922.)

First reading.

The Honourable Mr. H. S. LAWRENCE : Mr. President, I rise to move the first reading of the Entertainments Duty Bill.

As this Council will remember, it was introduced last March by the Honourable Mr. Cowasji Jehangir, but the first reading was then refused. Government, however, have been led to believe that this Council have seen

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cause in the intervening six months to change their opinion, and they have therefore decided to place the bill before the Council once again practically unaltered. The need for additional revenue will, I suppose, not be questioned by any member of this House. The House has just agreed to the introduction of the Compulsory Education Bill; and we are advised by the Honourable Minister for Education that he expects to spend next year an additional sum of about 16 lakhs of rupees on primary education, and that there will undoubtedly be further increases year by year. It is contrary, Sir, to the principles of sound finance to earmark the proceeds of any special tax to any special purpose. That is a most important principle, which the Honourable the President himself has recently brought to the attention of the Council.

The Honourable the PRESIDENT: Subject to this: on the recommendation of the Crown and by the Minister of the Crown it can be done. It is perhaps subject also to another condition: you cannot earmark it for a period of years, because it may have to go into the annual budget. However, in the main principle the Honourable the Finance Member is right. I only wanted those reservations to be borne in mind, lest I should be misunderstood in future were a point of order raised.

The Honourable Mr. H. S. LAWRENCE: Government, however, recognise that there is an intimate connection between this taxation and the fresh demands for compulsory education. There can be no earmarking, and there can be no definite guarantee given. The proceeds received from this taxation will go into the ordinary public exchequer, and from that exchequer we hope to be able to meet the additional expenditure that will be required next year, and also any expenditure that may be required in the current year.

The House is now fully conversant with our financial position as it was disclosed in the budget last March. I need not go into any detail on that point, but I would just remind the House of the precarious character of our position, of the fluctuations to which our revenue is liable in the chief sources which are derived from Land Revenue, Excise and Stamps. We cannot rest content until our revenue is more broadly based; until we have secured resources which are not all liable to diminution simultaneously, and, so far as possible, solid resources which will not be subject to fluctuation at the very time when the strain on the public exchequer increases most severely. Through the exercise of severe measures of retrenchment and the additional revenue from stamps and court-fees, which was sanctioned by this House last March, we have been able to put together a budget for the current year which just balances, but which leaves us no margin for the necessary growth of expenditure. There is therefore no possibility of our being able to meet additional demands for primary education from our existing resources, and we are therefore driven to the necessity of asking for money by this bill.

It is proposed to levy a small tax by means of a stamp on all tickets of admission to places of public amusement, with certain exceptions in regard to charitable, educational or scientific exhibitions, not conducted for profit. The bill is confined to towns having a population of 100,000 and over. The payments are moderate, ranging from half an anna on cheap seats below 4 annas in cost to one rupee on every Rs. 10 of expensive seats.

The principle which this House is asked to accept on the first reading is that it is right and proper to levy revenue by means of an entertainments tax. The amount of the tax to be charged and the method by which it shall be levied are subsidiary points, which will be fully considered by the select committee

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which will be appointed, and which will be the subject for discussion in this Council on the second reading. I need not therefore take up the valuable time of this Council, every minute of discussion in which has, according to an interesting estimate which I have seen, been computed to amount to a cost of Rs. 10 in actual payments by Government, by any detailed exposition of each section.

We have considered the experience which has been gained in the levy of a similar tax in England, and the provisions which have recently been inserted in an Act of the Bengal Legislative Council. We have based this bill on those precedents, and we have therefore concluded that the most convenient method of levy is by means of stamps on the tickets of admission. Provision will, however, be made in the discussion in the select committee for dealing with such exceptional cases as institutions which grant admission by means of lump subscriptions or where certified accounts can be accepted showing the total amount of money received in virtue of admission.

I have said, Sir, that we have taken into consideration the provisions of the Bengal Act. I have no doubt that some honourable members have studied this Act, and they may have observed that we have not included any provision in this bill in regard to taxing the receipts of the totalisator of the Turf Club. In case any member may have permitted any suspicions of the action of Government in this respect to enter his mind, as I notice some members occasionally do entertain such suspicions, I should like to dissipate them at the very outset. The reason for the difference in the treatment of this subject by the Bengal Government to that which we propose lies in the possession by this Government of powers under the Race Courses Act No. III of 1912, which power the Government of Bengal do not possess. Under this Race Courses Act this Government are enabled to grant a license to the Turf Club on such conditions as they think fit. We have been considering the amount of revenue which we should derive from some such imposition upon the receipts of the totalisator. We have given warning to the Turf Club that such a levy will be made next year. Government have not considered it just or expedient to make that levy without notice in the current year; for the financial commitments of an institution of the magnitude of the Turf Club are necessarily prepared in advance, and we consider that it would be contrary to sound policy and precedent to make such demands which would interfere drastically with the arrangements of an institution of such magnitude. But this House may be satisfied that Government have no intention of omitting to draw upon this source of revenue. The amount that may be so derived and the method by which it should be obtained are now under discussion with the Turf Club, and I am not in a position to make any further statement on that particular point.

From the statistics which were obtained regarding admissions to cinemas and theatres, it has been estimated that provided the attendance does not fall off, a sum of some eighteen lakhs of rupees would be secured; and it may perhaps interest the House to know that special enquiries were made regarding admissions to the race course, and it is anticipated that a sum of some two lakhs would be obtained from this source. Admissions to the race course of course come under this bill though the totalisator does not.

On the other hand, we have of course been warned that the result of this tax will be to keep people away from places of amusement, that attendance will fall off very greatly, and that we shall not obtain the revenue which we hope for. We can only say that this is a matter regarding which men will

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entertain anticipations of good or evil according to their own possession of an optimistic or a pessimistic temperament, according to their constitutions and temperaments. If the Council believes that this is a good tax; that it will fall only upon persons who voluntarily undergo it by seeking admission to places of amusement; that it can be collected without any serious interference with the public convenience, or without any considerable cost by way of special establishment, I say, Sir, if the Council is convinced of this elementary proposition as this Government are convinced, I would ask that the first reading of the bill be agreed to, and I will then propose that a select committee be appointed who will be prepared to consider all objections and to adjust the machinery proposed by Government to greater perfection in detail.

Mr. R. G. SALGAR (Sholapur City) (Addressed the House in Marathi): Mr. President, supporting as I do the first reading of this bill, I strongly recommend that the whole income that would be derived from the passing of this Act should be devoted solely and entirely to the propagation of education. The tax of half an anna on tickets worth up to four annas should in my opinion be increased to one anna for the simple reason that people paying four annas for tickets are generally from the lower and poorer classes. The danger to these classes from visiting cinemas is that they pick up the art of murdering, they learn how to commit thefts successfully and avoid arrest. Theatrical performances are usually immune from a criticism of this kind—on the contrary much good results from dramas staged even before illiterate masses.

My experience of Bombay has led me to the conclusion that people residing in that great city do not care whether they have to pay Rs. 2 or Rs. 4 for a ticket of admission to a theatre. The scale of tax on such tickets should be increased from six to eight annas, because these people do not hesitate to pay even Rs. 5 for a ticket so long as they can get admission. With these suggestions, I resume my seat.

Mr. S. T. KAMBLI (Dharwar District): Mr. President, this bill introduces a novel form of taxation. I say it is a novel form of taxation in this sense that we in this Presidency are unaccustomed to it heretofore. The bill proposes to levy a tax on a somewhat graduated scale on amusements such as theatrical shows, cinema performances, etc.

(At this stage the Honourable the President withdrew and the Deputy President occupied the chair.)

It is a tax not on necessaries of life but on expenditure of money on matters of luxury. Sir, those of us who may think that we are overburdened with taxation may well try to avoid the payment of this tax by resorting to the simple expediency of not resorting to such places of amusement. Sir, this Council voted for additional taxation in the March sessions last on court-fees and stamps, that is, the Council voted for additional taxation on matters of absolute necessity and now, Sir, when the Government is called upon to incur a large expenditure of money on such an important subject of nation-building as the introduction of compulsory education, it is but fair and just that this Council should readily vote for a measure of taxation as the one now before us, which proposes to levy a tax on objects of luxury to provide Government with necessary funds. As to the exact amounts of the tax which should be levied on various kinds of denominations of tickets, that is a matter which I

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submit should be left for the decision of the select committee, and I hope the select committee will go into that question. With these words, I support the first reading of this bill.

(The Honourable the President at this stage resumed the Chair.)

Rao Saheb D. P. DESAI (Kaira District): Mr. President, I accept the principle of the bill. This Council has just passed the Compulsory Education Bill and it will not be proper for this Council to throw out a finance bill of this sort especially when the Honourable the Finance Member himself says that the proceeds that will be derived from the operation of this bill will be devoted to compulsory education, but I should think that a clause to that effect should be introduced into the bill itself.

Again, Sir, there is one more point that I would just like to place for the consideration of the Council. There is a proposal for leave to introduce a bill for amending the Race-Courses Licensing Act.....

The Honourable the PRESIDENT: That has nothing to do with the bill. You cannot refer to an impending legislation by anticipation.

Rao Saheb D. P. DESAI: I was going to say that it would be better to have this bill postponed till the fate of that bill is decided especially in view of the fact that the Deputy President is coming out with a still bigger purse. Again, Sir, I am sorry to find in this bill that poor people who generally buy four-anna tickets for entertainments will have to pay an additional half-anna. Mill-hands and such other poor people largely resort to entertainments for recreation purposes. I ask the Honourable the Finance Member whether he cannot exempt these poor classes from the additional payment of half anna.

The Honourable the PRESIDENT: The Honourable the Finance Member has no power to do so. It is for the Council. He is not the legislator.

Rao Saheb D. P. DESAI: Then, I leave it to the consideration of my colleagues to see whether this class of poor people should not be exempted. With these remarks, I resume my seat.

Rao Bahadur R. R. KALE (Satara District): Sir, I rise to support the first reading of the bill, and in doing so I have to state to the Council that I was one of those persons who opposed the first reading of this bill, when it was brought before the Council the last time. The reason which was given at that time for opposing the bill was that unless the Government were prepared to undertake any new reforms, the Council would not be well advised in going in for fresh taxation for meeting the ordinary expenditure of the administration. That principle, I think, was accepted by the House, and on that ground and not on the merits, this bill was thrown out. Now, Sir, the circumstances have changed. The Council has now passed a very important measure which is calculated to mark the first step in the direction of reforms. This Council must now supply the sinews of war for the purpose of carrying out those reforms.

I have one word to say with regard to what the honourable member from Kaira, Rao Saheb Dadubhai Desai, said about the Race Courses Bill. The Honourable the Finance Member himself stated that there was some correspondence going on and that the race courses should be brought under the operation of.....

The Honourable the PRESIDENT: It is very inconvenient to introduce consideration of some other bill. It must be made plain as to how it is relevant. Otherwise, racing, golfing and everything else will come in for discussion, and it will open a very wide field of debate. We must restrict ourselves to the consideration of the principle of the bill before the House.

Rao Bahadur R. R. KALE: I think golfing, etc., also comes under entertainments.

The Honourable the PRESIDENT: Does the bill include horse race also?

Rao Bahadur R. R. KALE: I was going to say that the first reading of the bill will not be the proper time to suggest something of that sort, and I was replying to him.

The Honourable the PRESIDENT: I told him that he was not relevant.

Rao Bahadur R. R. KALE: I was saying that consideration should not delay the bill, because the Honourable the Finance Member said that the race course matter was under the consideration of the Government.

The Honourable the PRESIDENT: The honourable member who is going to bring it may not bring it.

Rao Bahadur R. R. KALE: If there is no immediate prospect of introducing any such measure, I would suggest to the Honourable the Finance Member to include in the present bill race courses as an entertainment. That is the suggestion which I am going to make. At the first reading of the bill, the principle should be laid down. Let one of the entertainments be the race courses.

The Honourable the PRESIDENT: Honourable members will be at liberty to insist at this stage upon that being brought in as part and parcel of the bill as a principle of the bill.

Rao Bahadur R. R. KALE: I think, Sir, it ought to come, and I think it could be included under the term 'entertainment'.

The Honourable the PRESIDENT: I think this bill applies to all those amusements the primary idea of which is entertainment. In the case of horse racing can we say the idea of entertainment is primary, seeing that the primary object is the breed of horses, and even as an entertainment, it is not entertainment pure and simple, but betting and making money? I doubt if race courses are within the scope of this bill.

The Honourable Mr. H. S. LAWRENCE: May I say a few words, Sir?

The Honourable the PRESIDENT: Yes.

The Honourable Mr. H. S. LAWRENCE: Government considers admission to the race course to be an admission to a place of entertainment and for that purpose admission of persons to a race course on payment is held by Government to be an entertainment.

The Honourable the PRESIDENT: Is there any provision in this bill?

The Honourable Mr. H. S. LAWRENCE: In clause 2 (*a*) it is held that:

"'Entertainment' includes any exhibition, performance, amusement, game or sport to which persons are admitted for payment."

The Honourable the PRESIDENT: If Government have included it in the bill, it is a different matter. I was going by the title of the bill and, as I have already pointed out on several occasions, the titles and the preambles of the bills are worded in some bills so as to put the Chair on a wrong track.

Rao Bahadur R. R. KALE: As I say, Sir, the scope of the bill ought not to be restricted, but you can extend it to an entertainment of this kind which is arranged for by a horse race, and if my impression is correct, Sir, under the English Act, this kind of entertainment is subjected to a tax. So, under those circumstances, I was not quite able to follow the honourable member from Kaira when he said that a separate bill is being brought forward by another honourable member, a private member. My submission to the Council is that that matter can be included in the present bill. No doubt, the details of it may not have been perhaps worked out, but I think, as this is only the first reading of the bill, by the time the bill emerges out of the select committee, there will be enough time to consider whether the particular entertainment can be, or is being, brought under the operation of this bill, and, with that reservation, I have no hesitation whatever in supporting the first reading of this bill.

The Honourable the PRESIDENT: Is horse-racing considered to be sports?

The Honourable Mr. H. S. LAWRENCE: Yes; it is.

Dr. K. E. DADACHANJI (Bombay City, South): Sir, it is very difficult to oppose the imposition of this tax on entertainments. When I, Sir, came here, I thought I would oppose the bill, but, as the proceeds as explained by the honourable mover are to be expended for the furtherance of compulsory primary education it becomes a very difficult task for me to oppose it. Sir, I am one of those who feel that a certain amount of amusement and relaxation is necessary to relieve the drab and monotony in the lives of the working class people, and it is this class of people who will be greatly affected by this bill and it will be a great hardship to them. It will perhaps be said, Sir, "What does it matter? It is only a question of half an anna or so?" But we know, Sir, that this class of people would rather pay more for other vices than pay this half anna as a tax on entertainment. Not only our people, Sir, but I have read some years ago that in Great Britain when a tax was levied on coffee—only half a penny more—people went to tea houses and deserted the coffee houses. This is the mentality of this sort of people—just the sort of people we have in our midst here, Sir. Taking the city of Bombay, which is a great source of income in this connection, I must say I do not know how the honourable mover works out the figures and arrives at a conclusion that the proceeds of the cinemas and theatres would come to 18 lakhs. My information is, Sir, that except the Royal Cinema, in the City of Bombay all the theatres and cinemas are being run at a considerable loss. There is only one cinema—the Royal Cinema as I said—which is working at a profit; all the rest are working at a considerable loss. In a short time I will not be surprised if all the cinemas and theatres will have to be closed down on account of continuous loss, and the whole blame will then be levelled at this bill! They are in the worst condition at present; all are being worked I repeat at a considerable loss.

An HONOURABLE MEMBER: Your information is wrong.

Dr. K. E. DADACHANJI: That is my information. It may be right or it may be wrong.

Mr. President, take the example of the United States.

It is by this tax that 2,100 cinemas had to be closed down there. Some of these were to be turned into shops, godowns and garages and one into a city morgue.

[Dr. K. E. Dadachanji]

Take the example of Great Britain. Those who have read the March issue of the "Cinema" (newspaper) will have seen that there was a mass meeting held in London in Lyric Theatre where there were so many members of Parliament present, and a resolution was passed asking that it should be seriously considered whether the tax should not be abolished, as it was introduced only as a war measure.

Mr. President, it was urged in the meeting there that a tax which strangles and holds in check a growing industry is radically wrong in principle. It is a new industry and this sort of industry should not be burdened by taxation, unless it is absolutely necessary to do so as in the case of war and very urgent financial cases. But, for the purpose of giving money for primary education—compulsory education—I do not think that such a new industry should be overburdened with taxation for this sort of ordinary expenditure. Mr. President, we must take the example of that which is going on in the case of other parts of the world where there has been introduced such tax. The case of Java nearly approximates to our case and in Java this tax is primarily responsible for the slump.

I wish, Sir, that an enquiry was made by appointing a committee or something of the kind and we ought to have learnt the condition of the cinemas and the theatres in the Presidency of Bombay. That would have given us a good idea. We cannot now say whether the proceeds would be Rs. 8,00,000 or Rs. 10,00,000 or anything like it. As far as I know, the Madon Theatres, Limited, for instance, have paid no dividend whatever to their shareholders for the last year. I do not know whether the honourable mover has made enquiries into all these matters. I know the Madon Theatres, Limited, have paid no dividend. Sir, I came with the intention of opposing the bill, but when I understand that the income is to be spent on primary education, it becomes a very difficult task for me to oppose it, and if by imposing this tax you will be able to derive even only Rs. 8,00,000 or Rs. 10,00,000, I should be very glad. But I request, Sir, that the lower seats—from 4 anna seats to 12 anna seats—ought to be exempted, so that the poor labouring classes should not be affected by this sort of tax. It is being urged by certain leaders of the working class people in the city of Bombay that these work people—these labouring classes—are exempted from paying the income tax, and in order to level up that exemption, this tax is being imposed. I do not agree with that view myself, but it is being urged by the leaders of the working class people in Bombay. I hope, Sir, that in the select committee the lower seats will be exempted or it should be said that instead of this tax the easy method would be to levy a tax on the lines of income-tax on the owners. Perhaps the income-tax on the proprietors may be doubled. There won't be any difficulty about that as the figures are there, the proprietors are there and no account would be necessary; also no interference by the police would be necessary for that purpose and it would also not give a handle to the lower grade police officers, to open a door for corruption. So, I say that if you want to levy this entertainments tax, exempt the lower classes and levy a tax on the proprietors on the lines of income-tax; that will shift the burden from the labouring classes. If we prevent them from enjoying these sorts of entertainments they are sure to take up to intemperance and other vices.

The Honourable Dr. R. P. PARANJPYE: What would you get for two pices?

Dr. K. E. DADACHANJI: Well, there will be so much temptation, even for a small sum that you cannot imagine. It should be remembered that the cinemas have educative value. This suggestion of mine, namely, whether these lower classes who pay upto four annas should not be exempted, may be taken into consideration by the select committee. Of course if it could be done, then the income-tax paid by the proprietors should be doubled. With these remarks, I will resume my seat.

The Honourable the PRESIDENT: May I ask the Honourable Member in charge of this bill whether the title of the bill and the preamble have been borrowed from the English Act? I enquire because I see section 2 is, on the margin of the bill, stated to be taken from the English Act in defining "entertainments" where you bring in sport also. Therefore I desire to know whether the words of the title and the preamble have also been reproduced from the English Act.

The Honourable Mr. H. S. LAWRENCE: The title, Sir, is from the Finance (New Duties) Act of 1916. It is an Act to impose duties on admission to entertainments.

The Honourable the PRESIDENT: The title then is worded in a general term so as to include racing. That follows the English Act, but the preamble does not and ill-assorts with the title. Instead of bringing in entertainments first, it brings in theatres, cinemas, and concludes with the larger words, *viz.*, "other public places of entertainments", so as to raise the *ajusdem generis* principle of interpretation. It is my duty, I think, to point out that the title, the preamble and the definition clause should consist with one another so that there may be no difficulty either at this first reading or at the second.

Rao Bahadur S. D. GARUD (West Khandesh District): I rise, Sir, to support the first reading of the bill. I think when the bill was vetoed by the Council on the last occasion it was vetoed more because it was thought that this source was contemplated for primary education and that it was being exploited for the current administration of Government and not because this source of taxation was not approved. That theatres, cinemas, and entertainments such as the race course should be taxed, is I think generally accepted, and that was not the reason for which that bill was thrown out. Government have since then shown a very earnest desire to make retrenchments wherever possible and have given an undertaking to retrench their expenditure to the extent of Rs. 60 lakhs. Now it is quite fair that they should have some money for their legitimate expenditure; otherwise we shall see retrenchment running amok in all departments, reducing efficiency and leading to a great deal of inconvenience. It is therefore necessary that Government should have this source made available now particularly when they undertake to see that this money is expended for the purpose of primary education for which it was first pointed out to Government as a possible source of taxation which would be approved of. I therefore think, Sir, that there should now be no difficulty in supporting this measure and in passing it into law.

Mr. M. A. HAVELIWALA (Bombay City): Mr. President, I am one of those who supported this bill last time when it was thrown out by this Council and I am glad to see that those members who opposed the bill then have come round to support it this time. I was equally glad to hear the Honourable the Finance Member making it clear that the Turf Club is not going to be left alone as it was done in the past, and they are going to get something like two lakhs of rupees out of the admission tickets to the race course. Also, if I under-

[Mr. M. A. Haveliwala]

stand the Honourable the Finance Member quite rightly, they are going to have, besides taxing the admission tickets, from the Turf Club something substantial and I hope the amount that may be agreed upon will be placed in the budget of the next year and the arrangement will be completed before then. I may tell honourable members that the Turf Club has had a very easy time for all these years both in the city of Bombay and in Poona, and in view of the huge profits it is making, the public of this Presidency rightly grumbled, and it is a matter of gratification to see that Government have come round to get a small share out of their fortune by way of taxation for our expenditure.

Khan Bahadur S. N. BHUTTO (Larkana District): Sir, while supporting the Entertainments Duty Bill, I beg to state that I differ from my honourable friend from Bombay. Sir, my personal experience of Bombay is that sometimes when we go to the theatres and the cinemas at the last moment we cannot get seats even for Rs. 2 or Rs. 4. That means that even if the charges are raised to Rs. 2, Rs. 3 or Rs. 4, the theatres will be full and the proprietors of threatres will not lose. Moreover the money that will be raised will go to a good cause, that is the cause of education. On that understanding we have just passed the first reading of the Compulsory Education Bill. Sir, this bill is going to affect the people going to theatres. Therefore there is no compulsory exaction; it is only voluntary payment. I assure my honourable friend from Bombay that it will not affect any proprietor of cinemas or theatres. Then an honourable member said that the income from theatres ought not to be utilised for education. Well then, let this be utilised to prosecute thieves and dacoits, and the money set free can be utilised for education.

Mr. IBRAHIM S. HAJI (Bombay City): Sir, I rise to oppose the first reading of this bill. It will be in the memory of this House that only 7½ months ago this Council accepted the principle that this tax is not necessary, and the argument in support of that position was that Government had not shown to this House that complete retrenchment had been adopted and that further reduction in expenditure was not possible. To-day, Sir, the financial position is still a Chinese puzzle to us. We are in the middle of the financial year, and evidence is not before us to judge what the position will be at the beginning of the next financial year. We have no facts and figures about expenditure on one side and revenue on the other, and, therefore, this bill stands on the same footing as it was in the early part of February. My honourable friend says that the incidence of this duty will fall on the cinema proprietors. The incidence of this tax will necessarily fall on the persons who are resorting to these pleasures; for example the persons going to the cinemas will have to pay the extra anna or two annas on each admission ticket and not the proprietors. Thus we shall be stopping the only places of amusement for the masses. If the Government want to have money for the purpose of spending on education or other good purposes, even now it is possible for them to give a guarantee or an undertaking that this amount will be earmarked for primary education or for the carrying on of the policy of total prohibition. But not a single word has come from the Government. In the absence of any such undertaking, I submit to this House that by consenting to the raising of this extra money from the pockets of the poor, we shall be only filling the purse which is utilised to maintain the "steel frame" and to give them extravagant allowances and high salaries over which this House will have no control. Sir, under these circumstances, I beg to move, under Standing Orders, Part IV, clause 4 (1),

[Mr. Ibrahim S. Haji]

"That the consideration of Bill No. XX of 1922 be postponed to the next budget session."

The reason why I ask this House to postpone the consideration of this bill is this: we do not yet know our financial position; the facts and figures of our financial balance will be available in the beginning of the next financial year, and before then the House will have time to consider whether our expenditure is justified by our revenues or whether there is any possibility of further reducing expenditure. The last time this bill was discussed the Government gave us an assurance that they had done their best to effect retrenchment, but that there was no way out. But when the bill was thrown out, the next day Government gave an undertaking to effect a retrenchment of 60 lakhs. If this bill is thrown out now, this House will have further opportunities of understanding the financial position of the Presidency.

The Honourable the PRESIDENT: The Standing Order referred to says:

"The President after permitting, if he thinks fit, a brief explanatory statement from the mover of the motion, and, if the motion is opposed, from the member opposing the motion, may, without further debate, put the question thereon."

Does any member wish to oppose this motion?

Rao Bahadur G. K. CHITALE (Ahmednagar District): Mr. President, I oppose the motion, and in doing so I have no hesitation in saying that this House will almost unanimously throw out the amendment. (Honourable Members: Hear, hear.) It appears to me perfectly clear that this special pleading ought not to be allowed to prevail in this House. I say special pleading, because this House has committed itself to a very great responsibility indeed in passing the compulsory education measure, and delaying it would be very detrimental to the fame of this House and to the promises which have been given by Government. To my mind, Sir, this entertainment tax is such an equitable measure that it should have preceded the other taxation proposals which have been passed in the form of increased rates for court-fees and stamps. It was only by ill-luck that this bill had to wait for another six months under the Standing Orders. Those six months are over; we have just now passed a measure of great responsibility, and I have no doubt that without much argument this House will throw out the amendment almost unanimously.

(Amendment negatived.)

Dr. S. S. BATLIWALA (Bombay City, North): Mr. President, I am afraid that I cannot see eye to eye with the honourable members who spoke last, my honourable friend from Bombay representing the Mahomedan community, neither with my honourable friend on my right, the member for Bombay City (South), who differs in his views on this subject with me just as much as the north is away from the south. I do not, for a moment, believe that this taxation if levied will act harshly on the poorer classes, on whose behalf an attempt has been made to show that it will inflict hardship on them as well as on the cinema proprietors. Sir, we know that the income derived from this tax will go for a purpose which will help the poorest of the poor classes, I mean to meet the expenditure of compulsory education a bill for which has just passed the first reading in this House. It is for the masses that the tax will be collected. It is not for the richer classes, who can look after themselves. In levying any tax we must see that the middle and the richer classes pay it in preference to the poorer classes and we must also see that it does not fall on the prime necessities of life which the poor must have for their existence. Here is a tax which is only intended to be imposed on amusements. We always care to spend on amusement when we have extra money in our pockets. If we are rich,

[Dr. S. S. Batliwala]

we can spend more, but if we are poor, we can spend in proportion to our income. It is a tax on amusements and not on any necessities of life. Therefore, even if the poor attend the cinemas, it will not be depriving them of anything except a small sum of money which will go towards uplifting them in the world. Sir, my friend the honourable member from Bombay representing the Mahomedan community said that it was only 7½ months ago that the Council had voted against this taxation and that, therefore, it is too soon to reconsider the same. It has been said by several honourable members here that if the House then was against this taxation bill, it was not on account of their opposition to the principle of the bill, which we were all agreed was a sound one, but it was on account of the attitude taken up by the Government members, who would not give out the exact sum which they would be able to retrench from the budget. It was that which exasperated the feelings of honourable members, and led them to veto the tax, and that they did, with the very salutary result, because in the afternoon when the Government members assembled they declared that they would be prepared to retrench their expenditure to the extent of Rs. 60 lakhs. It was that attitude of the Government members, and that alone, speaking for myself, that induced me to vote against this taxation bill on the last occasion, and not because it touched the pockets of the poor, or caused hardship to the cinema proprietors.

My honourable friend from Bombay representing the Mahomedan community said that the financial position as explained by the Honourable the Finance Member was a Chinese puzzle to us. But I ask, what more explanation could satisfy one than the one that was given by the Honourable the Finance Member in his speech? He said that through the exercise of severe measures of retrenchment and with the help of the additional revenue from stamps and court fees which were sanctioned by this House last March, Government have been able to put through the budget for the current year which just balances, but which leaves no margin for the necessary growth of expenditure in the next year. Besides that, we have just now passed the first reading of the Compulsory Education Bill which would require a large sum of money, at least for the first year, Rs. 16 lakhs. Where are we to get this from? It is for that purpose, if not for any other purpose, that we should unanimously support the first reading of this bill.

Then, Sir, another fallacious argument was advanced by my honourable friend, the member from Bombay. He said that the incidence of this tax will fall on the poor, with the result that we would stop the only source of amusement to the masses. I question, Sir, whether our action will at all prevent these poor classes from enjoying the cinema show. Of course, if they want to have some amusement, they may have it at the cost of a small sum of money, which is collected for a very good cause, and therefore it should not deter us from doing our duty towards the masses. I say that under the pretext of protecting the masses, the cinema proprietors do not desire the levying of the tax. That is what the argument of my honourable friend (Mr. Haji) means. We have to see whether the masses do actually suffer by this tax in the matter of the necessities of their life. If that is not so, then I do not think they should grumble to pay a little more for their amusements, especially as the sum collected will go towards a very salutary cause of uplifting the masses.

I have already said that I do not see eye to eye with my honourable friend on my right that the cinema industry which is in a prime condition will be strangled by this taxation. I am afraid I do not agree with him there.

Dr. K. E. DADACHANJI: It is not my opinion. It is the opinion of the mass meeting held in London.

Dr. S. S. BATLIWALA: My friend says it is the opinion of the mass meeting in London. How far that may be true, I do not know. There may be certain circumstances there which do not apply to Bombay. In Bombay the poorer classes will not be deterred from attending cinemas, if they could afford to do so, because it does give them some amount of pleasure. If half an anna or an anna more goes out of their pockets to get that pleasure, I do not quite see why my honourable friend should say that it would prevent the masses from attending the cinemas or that the cinema industry will be strangled. As regards his argument that the theatre companies do not prosper, and therefore they should not be taxed, I say, Sir, that there may be one thousand and one reasons why a theatre company does not prosper. We know several theatre companies have failed on account of bad management, on account of corruption or neglect. For one thing or another a theatre company may not get on well. That must not prompt us to veto this bill and prevent us from passing the first reading of this bill which has as its object the providing of compulsory and free education.

Sir, I do not think I shall say much on this subject except that I will draw the attention of the Honourable the Finance Member to clause 5 of the bill wherein it is laid down :—

"If any person is admitted for payment to any place of entertainment and the provisions of section 4 are not complied with, the person admitted and the proprietor of the entertainment to which he is admitted shall, on conviction before a Magistrate, be liable in respect of each offence to a fine which may extend in the case of the person admitted to rupees fifty and in the case of the proprietor to rupees five hundred and the proprietor shall in addition be liable to pay any duty which should have been paid."

I am afraid, Sir, that this may prove a source of considerable undeserved harassment to the poor masses. We know that large mass of people are illiterate—they can hardly read or write; they know hardly what they are doing. When they want to go to cinemas, they pay for their admission ticket and go in; they hardly know whether a stamp has been affixed to the ticket or not. That they should be made to pay a fine up to Rs. 50 for their ignorance of the law does not seem to me to be quite fair. I think the select committee should look into this aspect of the question.....

The Honourable the PRESIDENT: That is a matter of detail.

Dr. S. S. BATLIWALA: I am only giving an instance.....

The Honourable the PRESIDENT: That does not affect the principle of the bill.

Dr. S. S. BATLIWALA: As I may not be in the select committee, I wished to draw the attention of the Honourable the Finance Member to this matter, Sir. With these words, I support the first reading of the bill.

Mr. M. W. PRADHAN (Thana District): I move a closure, Sir.

Honourable Members: Closure, closure.

The Honourable the PRESIDENT: I accept the closure.

Mr. G. B. TRIVEDI (Thana District): I want to oppose the first reading, Sir.

The Honourable the PRESIDENT: I have already accepted the closure, and therefore will now call upon the Honourable the Finance Member for a reply.

The Honourable Mr. H. S. LAWRENCE: Mr. President, I have been more than satisfied with the reception which has been accorded by this House to the bill before it. The details of the method or machinery will be fully discussed in the select committee and the point to which the honourable member who spoke last has drawn attention will be given special consideration in the select committee. I think there is nothing further that I may add and will therefore ask that the first reading of this bill be agreed to.

Bill read a first time. Question put and agreed to.

The Honourable Mr. H. S. LAWRENCE: I move that a select committee consisting of fifteen honourable members be appointed with a quorum of five members, the committee to report within a period of six weeks.

Question put and agreed to.

The Honourable Mr. H. S. LAWRENCE: I propose that the following honourable members of this House be appointed on the select committee in question:—

The Honourable Mr. C. V. Mehta, Rao Bahadur G. K. Chitale, Mr. S. K. Bole, Mr C. M. Gandhi, Mr. F. Clayton, Mr. F. Nelson, Mr. M. A. Havelivala, Dr. K. E. Dadachanji, Mr. Kanji Dwarkadas, Mr. P. J. Mead, Mr. F. C. Griffith, Mr. G. A. Thomas, Mr. Mohomed Salahuddin Karimuddin, Mr. G. B. Trivedi and the mover in charge of the bill.

Mr. G. B. TRIVEDI (Thana District): Mr. President, I beg leave to withdraw in favour of the honourable member from Bombay, Mr. Ibrahim S. Haji.

The Honourable the PRESIDENT: Honourable members cannot resign in favour of other members unless they move an amendment to that effect.

Mr. G. B. TRIVEDI: I beg to move that my name be withdrawn from the select committee on Bill No. XI of 1922 and that the name of the honourable member Mr. Ibrahim S. Haji be substituted for mine.

Amendment carried.

Bill referred to Select Committee. Question as amended put and agreed to.

The Honourable the PRESIDENT: The Council is adjourned till 2 p.m. on Thursday, the 5th October 1922.

*Thursday, the 5th October 1922.*

The Council re-assembled at the Council Hall, Poona, on Thursday, the 5th October 1922, at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI
FERNANDES, Major C.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODBOLE, Dewan Bahadur K. R.
GRIFFITH, Mr. F. C.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
ISRAN, Khan Saheb G. A.
JADHAV, Mr. B. V.
JENNINGS, Major-General W. E.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
KER, Mr. J. C.
LAGHARI, Khan Bahadur KHAIR BAKSH

Lalbhai Ambaram, Mr.
Lawrence, The Hon'ble Mr. H. S.
Ligade, Mr. S. P.
Lory, Mr. F. B. P.
Mackie, Mr. A. W. W.
Mansuri, Khan Saheb A. M.
Mead, Mr. P. J.
Mehta, The Hon'ble Mr. C. V.
Mohomed Salahuddin K., Mr.
Mountford, Mr. L. J.
Mutalik, Sardar V. N.
Nilkanth, Rao Bahadur R. M.
Nimbalkar, Mr. K. B.
Ojha, Mr. Dipchand T.
Pahalajani, Mr. B. G.
Painter, Mr. H. L.
Paranjpye, The Hon'ble Dr. R. P.
Patel, Mr. B. P.
Pradhan, Mr. M. W.
Proes, Mr. E. M.
Rahimtoola, The Hon'ble Sir Ibrahim
Salgar, Mr. R. G.
Sayed Nabi Baksh Shah.
Sayed, Mr. Mahomed Kamal Shah
Sayed, Shahjade Saheb Haidar Saheb
Setalvad, The Hon'ble Sir Chimanlal
Shirras, Mr. G. Findlay
Sindore, Mr. H. N.
Thomas, Mr. G. A.
Trivedi, Mr. G. B.
Vichare, Rao Bahadur D. A.

The Honourable the PRESIDENT: Order, order.

Mr. A. W. W. Mackie made the prescribed oath of allegiance and took his seat in the Council.

(Presentation of Petitions.)

Rao Bahadur R. R. KALE (Satara District): Sir, I have to present a petition from Mr. Manohar Pandurang Khopkar, Joint Principal, King George's English School, Dadar, Bombay, on behalf of the managers of aided schools in this Presidency. The petition prays that the grants-in-aid to secondary schools should not be reduced. A resolution has been submitted on the same subject, and the managers pray that their prayer should receive the consideration of the members of this Council.

Petition ordered to be placed upon the table.

## DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST.

The Honourable Dr. R. P. PARANJPYE: Sir, I wish to move for the acceptance of this Council a resolution in the following terms:

"This Council accepts the invitation of the Government of India to nominate one representative to the Court of Visitors of the Institute of Science at Bangalore, and resolves to proceed to the election according to the procedure laid down by the President."

This question has been referred to the Council on account of the communication recently received from the Government of India. There was an enquiry held by an influential committee, presided over by Sir William Pope into the management of the Institute of Science at Bangalore. They have made a very satisfactory recommendation as regards the constitution of the body for the management of that institution. According to the old arrangement the governing body consisted of a patron, vice-patrons, and a court of visitors. That constitution is going to be altered, and in future it will consist of a patron, a court of visitors, and a standing committee of the court and a council. The court of visitors will contain one nominee from the Legislative Council of each of the provinces, Bombay, Bengal, the Punjab, the United Provinces, Bihar and Orissa, Assam and Burma, and these are to hold office for three years. In former days, the Viceroy was its patron and the Governors of provinces were vice-patrons. The office of these vice-patrons is to be abolished, and each Legislative Council is to elect a representative to the court of visitors. If the Council accepts the invitation and the privilege, it may then proceed to elect a member according to the procedure to be laid down by the President. It is a formal resolution.

Dewan Bahadur K. R. GODBOLE (Poona District): Mr. President, I think the Council should readily agree to the proposal that is placed before it by the Honourable the Minister for Education. The Bangalore Institute of Science is a very important institution in this country, where science in its higher branches and its application to the industrial requirements of the country is closely studied. There is a lot of research work carried on in that institution, which industrially is of a very important character. I think the privilege given to this Council to nominate a member to represent this Presidency should be accepted by this Council.

Mr. C. M. GANDHI (Surat City): I agree with the views of the honourable member who preceded me, and I wish to ascertain from the Honourable Minister for Education whether sending a member will involve any further obligation on this Council. If it is merely a privilege which we are going to have, nobody will be more glad than myself to welcome the privilege.

The Honourable Dr. R. P. PARANJPYE: Sir, no such obligation is involved. The ordinary expenditure in connection with the representative to be sent from this Council will have to be incurred. If any proposal is made later on—there is nothing at present—you can ask your representative to enlighten you on the matter. At present I do not think any obligation is intended. The institute has got its own funds, and a governing body representative of the whole country is to be created. It is a privilege, I should consider, given to this Council to send a representative. I hope the Council will accept this.

Question put and agreed to.

The Honourable the PRESIDENT: Names of candidates proposed by honourable members may be sent before 2 o'clock to-morrow, and at 3 o'clock

[The President]

the election may be proceeded with. If the House thinks this unnecessary, then any honourable member may propose a name, and the House may elect him at once.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Is the Honourable Minister eligible for this?

The Honourable the PRESIDENT: There is no statutory disqualification. Any honourable member of the Council is eligible.

Rao Bahadur G. K. CHITALE: Then, why not proceed to elect now?

Mr. B. G. PAHALAJANI (Western Sind): I propose that the Honourable Dr. R. P. Paranjpye be elected as the representative of this Council to the Court of Visitors of the Institute of Science at Bangalore.

Rao Bahadur G. K. CHITALE: I second the proposal.

Question put and agreed to.

## SUPPLEMENTARY ESTIMATES.

**"Supplementary grant of Rs. 2,00,000 for construction of bungalows for Government officers at Ahmedabad."**

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I move for a supplementary grant of Rs. 2,00,000 to be added to the grant which has already been sanctioned by the Council under 41, Civil Works, namely, Rs. 1,17,41,000. Now, this Rs. 2,00,000 is wanted for the purpose of building bungalows for certain officers at Ahmedabad. We had approved in 1919 a scheme for the construction of bungalows for Government officers at Ahmedabad, and for that purpose certain lands were acquired which cost Rs. 4,00,000. But that scheme was subsequently revised and it was decided to restore the lands to the owners, who will pay us Rs. 4,00,000. The building of these bungalows was left to the housing committee, and that committee has decided to build about nine bungalows for Government officers, which will cost Rs. 2,00,000. Therefore, I request the Council to agree to this grant of Rs. 2,00,000. Though we propose to spend Rs. 2,00,000 at present on these bungalows, we shall receive Rs. 4,00,000 from the re-sale of the lands, and we shall earn interest on that Rs. 4,00,000. I hope therefore the Council will accept this demand.

Dewan Bahadur K. R. GODBOLE (Poona District): Mr. President, I am a member of the housing committee referred to; the committee has gone into this question fully and they have satisfied themselves that these additional seven bungalows are required at Ahmedabad. The designs have also been examined by the committee and they are satisfied that the accommodation provided in the designs is really required. I think, therefore, that the Council should pass the demand that has been made.

Question put and agreed to.

**"Supplementary grant of Rs. 44,100 for payment of arrears of pony allowance to the village establishment in Sind."**

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, I beg to move that a supplementary grant of Rs. 44,100 be sanctioned. This is merely a formal matter. The liability was incurred before the end of last year and as it was not paid, the amount which was provided in the last year's budget lapsed. This liability has, therefore, to be met during the current year and the amount

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required has to be provided. It does not in any way increase Government's liability. It merely means a book entry. Last year's grant lapsed to the balances and the amount has now to be taken from such balances.

Question put and agreed to.

"Supplementary grant of Rs. 10,389 for (*a*) retention of the post of Under Secretary in the Revenue Department from 1st to 16th March 1922, (*b*) creation of a temporary appointment of Under Secretary in the Revenue Department from 17th March to 31st July 1922 and (*c*) creation of a permanent appointment of a Junior Assistant Secretary in the Revenue Department from 1st August 1922."

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, I beg to move that a supplementary grant of Rs. 10,389 be sanctioned. This sum consists of three items. The first item is for Rs. 682, which represents the pay of Under Secretary in the Revenue Department from the 1st to 16th March 1922, inclusive. The second item consists of Rs. 5,157, which represents the cost of a temporary appointment of Under Secretary in the Revenue Department from 17th March 1922 to 31st July 1922 on a pay of Rs. 950 *plus* duty allowance of Rs. 200; and the third item consists of Rs. 4,550 which represents the creation of a permanent appointment of a Junior Assistant Secretary in the Revenue Department from 1st August 1922 on Rs. 650—50—850.

The appointment of Under Secretary has been abolished with effect from 17th March 1922 in consequence of the reconstitution of the superior staff of all the departments in the Secretariat. Experience has, however, shown that one more gazetted officer is absolutely necessary in the Revenue Department to cope with the volume of work both in the reserved and the transferred departments. The services of the holder of the post were accordingly retained on a temporary basis up to 31st July 1922; and an appointment of a permanent additional Assistant Secretary has been created thereafter. The appointment of the Assistant Secretary is on a lower scale as the duty allowance of Rs. 200 is not payable to him.

Question put and agreed to.

"Supplementary grant of Rs. 11,300 for the project for trenching of the spent wash from the Khanapur distillery and the expenditure on the working of the spent wash pumping plant."

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I move for a supplementary grant of Rs. 11,300 to be made over to the head 6, Excise from the head 41, Civil Works. This is simply a transfer from one head to another, namely, from the Public Works to Excise. This item of Rs. 11,300 is to be transferred to Excise for expenditure on the working of the spent wash pumping plant of the Khanapur distillery.

Question put and agreed to.

"Supplementary grant of Rs. 1,000 for accommodation to policemen in plague-infected areas."

The Honourable Mr. M. H. W. HAYWARD: Mr. President, I move for a supplementary grant of Rs. 1,000 for accommodation of police in plague-infected areas. We took a grant of Rs. 500 only but our estimate was unduly optimistic, and it has been reported that we shall want another Rs. 1,000, the chief offender in the matter being Belgaum. I therefore propose that this extra Rs. 1,000 should be granted for this purpose to the head 26, Police.

Question put and agreed to.

"Supplementary grant of Rs. 2,100 (Rs. 300 per mensem) to be paid towards the maintenance of the Satara Museum with effect from the 1st of August 1922)."

The Honourable Dr. R. P. PARANJPYE: Sir, I move for a grant of Rs. 2,100 for the purpose of maintaining the Satara Museum, with effect from the 1st of August 1922. Sir, the question can be simply explained in this manner.

[Dr. R. P. Paranjpye]

Honourable members are aware that Rao Bahadur Parasnis of Satara has got a very valuable historical museum, which is all his own collection. The museum is no doubt very valuable. It contains an amount of exhibits which are hardly seen anywhere in the world. But a private museum cannot be obviously maintained for a long time at the expense of a private gentleman, and Rao Bahadur Parasnis is not a very wealthy gentleman to be able to keep this museum for a very long time. Some years ago, he represented the matter to Government and asked them to make arrangements by means of which this museum will be available for the benefit of the public. At that time an arrangement was come to, that a building was to be built at Satara by Government at a cost of about Rs. 3,00,000 and the maintenance of the museum was to be partly at the expense of the district local board of Satara and the Satara municipality. The cost of the building was to be over Rs. 3,00,000. The building was actually taken in hand and a certain sum of money had been spent on that building which has been erected up to the plinth, but Government have got no money at present and is not likely to have money in the immediate future to complete the building. In the meanwhile the expense of maintaining that museum in the present building is being borne by Rao Bahadur Parasnis himself. If the original programme had been carried out, Rao Bahadur Parasnis's responsibility would have been transferred to Government, but as Government is unable to take up that responsibility at present, Rao Bahadur Parasnis has continued to maintain it. However, it is now possible for him to maintain it without some help from Government. At present the museum is housed in his own house at Satara and is under very good management. The exhibits are very well exhibited; perhaps not in any ideal manner as compared with other rich museums, but anybody who goes there will find that the museum is well worth a visit lasting more than a day. It contains old historical exhibits of ancient Mahomedan and Maratha dynasties and other exhibits collected from all quarters of the world, and, in fact, the value of the museum can hardly be estimated. If it does come into the market, I do not know how much money that museum would fetch if it is offered to be purchased by an American millionaire or an English millionaire. It is however felt that the museum should not be allowed to be disposed of in that manner. It contains national treasures of the utmost value, and we should try and make an effort to keep that museum for the benefit of the historical students of this country. Of course, several proposals were made to Rao Bahadur Parasnis, and one of them was to allow the museum to be moved to the city of Bombay and be made a part of the Prince of Wales Museum, but from a certain feeling of local partriotism Rao Bahadur Parasnis wants the museum to be in Satara itself. While these matters are under discussion, the request of Rao Bahadur Parasnis has got to be considered that he should at least be given by Government the expenditure that he is incurring at present, which amounts to Rs. 300, in connection with housing the museum, and also on account of a certain amount of establishment which he has employed. As regards supervision, it costs nothing, as Rao Bahadur Parasnis is attending to it himself. It is therefore proposed that this amount should be given to him for this year for seven months. I am not asking for a recurring grant for this purpose, in view of certain negotiations that might be carried on with him. On that I do not wish to say anything at present. I only want a grant of Rs. 2,100 as expenditure for seven months to be paid to him. I have visited this museum twice, and I can assure the Council that the museum is of the most valuable character, and if Rao Bahadur Parasnis

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is not helped in this manner, one may be sure that the whole treasure of the museum will have to be sold owing to his inability to continue it, and that will be a calamity which honourable members of this Council, in view of the great historical interests of this Presidency, will be very unwilling to submit to, and therefore I hope that the Council will sanction this grant.

Rao Bahadur R. R. KALE (Satara District): It is hardly necessary for me, Sir, to say anything at this point, because at present, as the Honourable Minister has stated, the demand is confined to a very small amount for the maintenance of this historical museum. Taking into consideration the unique character and the educational and historical value of this museum, I think the House will be well advised in going in for this small amount for the present. I will only quote Dr. Thomas, the distinguished orientalist and scholar and Librarian of the Royal Asiatic Society of London and of the India House. He writes to Rao Bahadur Parasnis:

"Your beautiful house is a mine of treasure and the very skilful and tasteful arrangement of everything gives additional value to the collection. I am really astonished at the variety and multitude of the *chef d'oeuvres* which you have brought together. Your museum is, I suppose, unsurpassed in artistic historical interest by anything of the kind in India, and I envy you the enjoyment of living amongst such delights. It will certainly preserve your name and will be an attraction to all visitors in the Presidency."

I am not going to say anything more at this stage, as negotiations are pending. The only reason why Government should contribute something towards its maintenace, as the Honourable the Minister has told us, is that if Government does not keep up the promise they made some time ago and in pursuance of which the building was started, the owner will be obliged to sell some of the valuable exhibits, and it will be a permanent loss to this Presidency and to the country. So, I think, before proceeding to deal with any proposals for a permanent endowment for this museum, the present demand might well be sanctioned by this Council.

Mr. P. R. CHIKODI (Belgaum District): Sir, I rise to oppose the grant of this demand. The collection of historical manuscripts, etc., is no doubt valuable, but after all it is a private property and I do not know how far Rao Bahadur Parasnis will allow the public to have access to, or control over, those collections. It is not good and proper that the public should be asked to maintain and pay for such private historical collections out of public funds. It is said that Rao Bahadur Parasnis is going to sell not all but some of the manuscripts, and if that is the case, it would be better if Government bought some of the collections and placed them in the Government museum. If the Honourable Minister is willing to place on the Council table the correspondence relating to the negotiations he is carrying on with Rao Bahadur Parasnis, the Council will be in a position to consider whether this grant should be voted or not. Till then, I would say that this grant should not be given. On these grounds I oppose the grant.

Mr. J. C. KER: Sir, the honourable member who just spoke is well aware that this collection, although it is the property of a private individual, is open to the public. I happened to be present only a few days ago when the matter was debated in another place, and the honourable member was informed that the collection was open to the public. The collection is one of public value and importance, and if the honourable member is wanting in historic sense, that is ino reason why the Council should vote against the grant. To a collection of this importance there should be given a temporary grant till permanent arrangements can be made.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, I wish to support the motion, but before I do so I would like to know whether, if the owner wished, on patriotic grounds, to keep this museum at Satara and not allow it to be transferred to Bombay, it would not be advisable for the district municipality or the local board to give a grant.

Rao Saheb D. P. DESAI (Kaira District): Sir, I rise to support the motion. Even if Rao Bahadur Parasnis keeps the whole museum for himself, which does not appear to be his desire, at least his labours and services would deserve a grant of annuity especially as he has collected these articles from different quarters of the world. He is a public benefactor in this respect. Articles that had belonged to India and which had left this country, he has brought and deposited in Satara. I think he should be given a grant for this, if not for anything else. However, I would just suggest to the Minister that he might buy the whole museum by annual instalments if it is so useful to the country.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, I wish to support the grant on this ground, that Government have given its word, and has passed a resolution, and has allowed a considerable amount, Rs. 30,000 or Rs. 35,000, to be spent out of the three lakhs granted long ago. Does this House wish that the Government should be allowed to back out of the promise on one ground or another, and induce a private individual to throw out a treasure that is certainly very valuable to India? Now, it appears, Sir, that a building has been erected and has been left where it is in an uncared for condition. However that may be, my honourable friend from Belgaum knows almost the exact line of negotiations. Under these circumstances, Sir, we should pass this grant unanimously rather than allow it to pass with some amount of hesitation. I support the grant whole-heartedly.

Sardar V.N. MUTALIK (Deccan Sardars and Inamdars): Sir, it would be as well that I should put in a word with regard to this grant, coming as I do from Satara. To the point raised by the honourable member from Belgaum, I may say the collection is at present open to the public, and no one is refused access to any of the specimens. The collection is the work of one life spent in strenuous endeavour, for more than twenty years. Government promised him not only a building, but also a certain amount of monthly honorarium in addition, and it would be bad faith if Government now refused to maintain that collection. Government have already promised, and I must strongly and whole-heartedly support this motion. I would appeal to the honourable members to support the grant whole-heartedly, to preserve the collection intact.

Mr. C. M. GANDHI (Surat City): I think, Sir, the House will surely be willing to support this motion whole-heartedly, informed as we are that the collection is a very valuable one. I dare say that Rao Bahadur Parasnis has spent laborious efforts to collect the specimens, and if he has collected this treasure of valuable things out of sheer patriotism, I fail to understand, Sir, why he cannot afford to wait for a few months till the negotiations are completed. I do not understand why he should ask rent for his own house. (An Honourable Member: It is a separate bungalow). But it is his own. It would be another matter if we are asked to maintain the museum, but I can never lend myself to accept a proposal which is in the nature of giving him a rent for a building which is his own.

The Honourable Dr. R. P. PARANJPYE: Mr. President, the plain fact is this: Rao Bahadur Parasnis is a historical student, and he knows exactly where the treasures are to be obtained. If you go and buy those treasures in the open market, they will cost you a lot. The expert knows exactly the various nooks and corners where they are to be found. The value of those treasures is not to be fixed by what he paid for them, but what Government would have to pay for them if they had to buy them in the open market. The house in which the collection at present stands is a pretty big house, and if the Government had kept to this old understanding by providing him with a house, then it would not have been necessary to make this grant. We have slept over our part of the contract, and I think it is but right that we should not ask a private gentleman, of no very wealthy status, to continue to keep a museum which, for all practical purposes, is a public museum, because nobody is refused access to it, simply because we have not been able to fulfil our terms on account of financial stringency or any other cause.

With regard to the suggestion of the honourable member from Belgaum about ourselves buying part of the collection, I would like to put it to honourable members whether, if a gentleman is going to sell a portion of his collection, he will obviously not sell it to the best purchaser that he can get, and I am afraid this Government in its wealthiest circumstances would not be able to go into the market and compete with wealthy millionaires who would be prepared to pay even the most absurd and fancy prices for such a collection.

As I have already said, I am asking for a grant only for this year. The amount is to be in the form of rent, because somehow or other we have to have some basis on which to fix the grant. We thought that the amount of Rs. 300 per month was a proper return for the rent of the house and for the charge of the small establishment. It is on that basis that the Rs. 300 has been calculated, and it is on that account that I have asked the House to sanction the grant.

As regards the point raised by the honourable member from Broach, I would point out that the Satara municipality and the district local board promised only to maintain the museum and to pay the expenses of keeping up the museum, but they are not prepared to make any grant for the purpose of a new building. Of course, whether it is to remain permanently in Satara under the altered conditions or not is a question for further discussion, and I do not think that it is worth while telling the Council what line the negotiations will take. All that I am asking for is this grant for a period of seven months. I therefore hope that the Council will support this grant.

Question put and agreed to.

**Supplementary grant of Rs. 5,500, for the continuance of certain temporary police establishment in the Ahmedabad district.**

The Honourable Mr. M. H. W. HAYWARD: Mr. President, I move for a supplementary grant of Rs. 5,500 for temporary police in the Ahmedabad district. A temporary force of 3 head constables and 30 constables was sanctioned for four months in the existing budget to deal with the dacoits in Gujarat. Unfortunately, it has been found necessary, owing to the continued prevalence of dacoities in Gujarat, to extend the time of entertainment of these temporary police for another six months. It is hoped that, during the cold weather, it will be possible to deal satisfactorily with these dacoits. I therefore ask the Council to sanction the additional sum of Rs. 5,500 required for these temporary police in Gujarat.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Mr. President, I rise to support this grant. Unfortunately, dacoities are still going on in many parts of the Ahmedabad district. The dacoits come in large parties possessed of fire-arms, and their methods are accompanied by cruel torture. There is therefore a great sense of insecurity in the countryside, and it is necessary that the police force should be continued.

Mr. G. B. TRIVEDI (Thana District): Mr. President, I rise to support this grant. I had occasion to visit Dholka last May, and I heard many stories of the people's misfortunes on account of these raids, and people were complaining of not having more police protection in those parts. I hope the Council will pass this grant. At the same time, I request the Honourable the Home Member to make further provision till this insecurity disappears.

The Honourable Mr. M. H. W. HAYWARD: I would merely mention that a very satisfactory arrangement will be made for the catching of these dacoits in Gujarat.

Question put and agreed to.

**Supplementary grant of Rs. 2,133⅓ for increment of pay due to Dr. Jamshyd D. Munsiff, Assistant Director of Public Health, from 1st November 1921 at Rs. 133⅓ per mensem.**

The Honourable Dr. R. P. PARANJPYE: Mr. President, I move for a grant of Rs. 2,133⅓ to cover the increment of pay due to Dr. Jamshyd D. Munsiff, F.R.C.S., D.P.H., Assistant Director of Public Health, from 1st November 1921 at Rs. 133⅓ per mensem. Sir, Dr. Munsiff was appointed Deputy Sanitary Commissioner in 1913. These Assistant Directors of Public Health were appointed on probation for two years, were confirmed after that period, and got their increment at the end of each five years. But, in view of the approved service of Dr. Munsiff in Mysore, where he was engaged by the Kolar Gold Fields Co., and the good reports that were received from the Political Department of the Mysore Government, this Government excused this probation and the first increment was granted in 1916. The next increment was, according to the understanding of the Government of Bombay and also of Dr. Munsiff, due in 1921, and the Accountant-General also accepted that position. But the Auditor-General raised an objection and said that, though the first increment had been granted in 1916, the second increment could not be granted to him for ten years from the beginning, from the moment he was engaged. That is against all understanding of the Government of Bombay, the Accountant-General and Dr. Munsiff, and on account of a technical objection raised by the Auditor-General, this question has got to be brought before the Legislative Council. We have been told that if the Council passes a resolution to this effect, the grant can be paid—that it is within the powers of the local Government—and therefore I have come forward to ask for this grant. It is only a formal motion to get over the objection raised by the Auditor-General; there is nothing new, and I therefore hope that the Council will pass this grant.

Question put and agreed to.

**Supplementary grant of Rs. 5,040 for revision of pay of the general duty Circle Inspectors in the Northern and Southern Divisions.**

The Honourable Sir IBRAHIM RAHIMTOOLA: Mr. President, I beg to move for a supplementary grant of Rs. 5,040 for revision of pay of the general duty circle inspectors in the Northern and Southern Divisions, to be transferred from 47, Miscellaneous to 5, Land Revenue.

The proposals for the revision of the pay of general duty circle inspectors in the Northern and Southern Divisions were included in the scheme for

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permanent measuring staff in those Divisions. The requisite provisions on account of the whole scheme were entered in the last year's list of new items prepared in connection with the "5, Land Revenue" budget note. As it was subsequently found necessary to cut down the expenditure to the lowest level, the provisions, which included provision for the pay revision of the general duty circle inspectors, were omitted. In view of financial stringency, it has been decided to postpone the general scheme till the next year. The question of the revision of pay of the general duty circle inspectors is, however, an urgent one, and Government propose to sanction the revision with effect from 1st March 1920 on the lines laid down for other establishments and to meet the expenditure on this account from the reseve at the disposal of the Finance Department.

Question put and agreed to.

**Supplementary grant of Rs. 4,950 for travelling allowances to non-official members and witnesses of Protection of Crops and Improvement of Cattle Committees.**

The Honourable Mr. C. V. MEHTA: Mr. President, I beg to ask for a supplementary grant of Rs. 4,950 to be transferred from 34, Agriculture, to 47 Miscellaneous, for travelling allowances to non-official members and witnesses in connection with Protection of Crops and Improvement of Cattle Committees.

The reason for the grant is explained in the following note:—

When the two committees were appointed by Government it was directed that the charge on account of the travelling allowance of non-official members of the committees and of the witnesses called by them should be met from the grants for travelling allowance at the disposal of the Director of Agriculture. The Accountant-General has, however, pointed out that the expenditure is to be recorded under the head '47, Miscellaneous—Special Commissions of Enquiry.' The total charge estimated is Rs. 4,950 (Rs. 1,500 for the first and Rs. 3,450 for the second committee) and it is proposed to transfer the amount from the provision of Rs. 40,000 for travelling allowance under Experimental Farms under the head "34, Agriculture."

It is in order to pay the travelling expenses of non-official members and witnesses of the committees appointed to consider measures (1) for the protection of crops from wild animals, (2) for the maintenance and improvement of the existing breeds of cattle and of the fodder supply of the Bombay Presidency. It is purely an accounts matter; the amount was provided for under 34, Agriculture, but the Accountant-General states that it must be provided under the head 47, Miscellaneous. I therefore request this grant.

Question put and agreed to.

**Supplementary grant of Rs. 25,000 for disposal of the Poona sewage effluent.**

The Honourable Mr. C. V. MEHTA: Mr. President, I have to ask for a supplementary grant of Rs. 25,000 to be transferred from 41, Civil Works, to 34, Agriculture, for disposal of the Poona sewage effluent.

This provision of Rs. 25,000 has been made under the head 41, Civil Works, in order to provide for the expenses in connection with the sewage effluent at Poona. The Accountant-General has held that this amount ought to be debited to 34, Agriculture, because the sewage effluent is being used for purposes in connection with experiments on certain crops. It is therefore requested that this amount be transferred from Public Works to Agriculture.

Question put and agreed to.

**Supplementary grant of Rs. 3,23,500 for the pay of the Sanitary Engineer and his staff including expenditure on sanitary works.**

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Mr. President, I beg to move for a supplementary grant of Rs. 3,23,500 to be transferred from 41, Civil Works to 33, Public Health, for the pay of the Sanitary Engineer and his staff including expenditure on sanitary works. This is merely a formal transfer from one head to another. The Government

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of India have decided that provision for roads and buildings only should be made under the head 41, Civil Works. Consequently, the provision for the pay of the Sanitary Engineer and his staff, including expenditure on sanitary works, has to be made under the appropriate head, namely, 33 Public Health. Hence this transfer.

Question put and agreed to.

**Supplementary grant of Rs. 2,300 for formation of a Criminal Tribes Settlement in Satara district.**

The Honourable Mr. M. H. W. HAYWARD : Mr. President, with your leave I rise to anticipate item 12 and to move item 13 for a sum of Rs. 2,300, for the formation of a Criminal Tribes Settlement in the Satara district. Item 12 refers to the education of the settlers and item 13 to guard of the settlers and the formation of the settlement. I may briefly explain, Sir, that crime in the Satara district is largely put down to Mangs and Ramoshis. There has been a gang which has been for years past a terror to the eastern parts of the district, and it is now reported that there is another gang forming which proposes to be a similar terror to the residents of the southern parts of the district of Satara. The Criminal Tribes Act was applied to the district, and the minor forms of restraint of registration and roll call were put in force. These minor forms of restraint however have proved futile, and it is now proposed to establish a criminal settlement for the worst offenders near the Bhatgar water works. This will give them regular employment at reasonable rates in a favourable climate with good prospects of their reclamation. It is hoped by this means that the crime of the district will be materially reduced at a comparatively small yearly cost of Rs. 5,000, and this will also enable us to carry out with equanimity the extensive scheme of retrenchment to the tune of over Rs. 20,000 in the police force of the district. I, therefore, recommend that item No. 13, Rs. 2,300 required this year for establishing a criminal tribe settlement in Satara be sanctioned by the Council.

Rao Bahadur R. R. KALE (Satara District) : I rise to support the grant asked for. By this measure, not only the cost on police will be reduced, but also the enormous cost the Government have been incurring in launching cases before courts is likely to be saved to a great extent. The last gang which was tried in the Sessions Court of Satara is an instance and that has cost Government a lot of expenditure. The case had to be tried first in the original court and then in the Sessions Court. If these gangs are not allowed to be at large, it will not only reduce crime but also reduce further expenditure on trials. In the interest of economy and the interest of people, the measure that is now proposed should be undertaken, and the establishment of a criminal settlement will, to a great extent, remove this evil. I heartily support the demand.

Mr. B. V. JADHAV : Sir, I would like to have some more information from the Honourable the Home Member on this point, whether he intends to form a criminal settlement for the Ramoshis of the whole district or for the Man taluka from which there has been much trouble. The Mang and Ramoshi tribes are giving the greatest trouble. The grant intends to remove this trouble, and there should be no objection to the grant. The Criminal Tribes Act has been in force against them, and in many instances men of those tribes who wanted to lead honest lives have been put to very great inconvenience on account of the operation of this Act. It is no wonder that many honest men among them have fallen into dishonest ways, and swollen the ranks

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of thieves and dacoits. The remedy for this will lie in giving them more opportunities of reforming themselves, and if they fail to do so then sending them to some criminal settlement.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Sir, I rise to support this grant. As the honourable nominated member from Satara said, only the Mangs and Ramoshis of Man taluka are gving the greatest trouble, and they should be sent to the criminal settlement. Those who know the condition of Satara will realise how difficult it has become to maintain law and order in the southern part of the district. Gang after gang is formed. Therefore, it is absolutely necessary to send not only these tribes but also other people who take part in this disorder and breach of peace.

The Honourable Mr. M. H. W. HAYWARD: I have only this to add, Sir. We have under consideration the general rules regarding the registration and roll call of members of the criminal tribes. We will also be careful in selecting the worst of them for the settlement at Bhatgar to have due regard to the claims of each and every taluka of the district of Satara.

Question put and agreed to.

**Supplementary grant of Rs. 500 to provide education for the inmates of the new Criminal Settlement.**

The Honourable Dr. R. P. PARANJPYE: Sir, I rise to ask for a supplementary grant of Rs. 500 for educating the inmates of the new Criminal Tribe Settlement whom my honourable friend has caught.

Question put and agreed to.

**"Supplementary grant of Rs. 8,311 for a criminal tribes settlement at Khanapur."**

The Honourable Mr. M. H. W. HAYWARD: Mr. President, I move for a supplementary grant of Rs. 8,311 from reserve to 25, Jails and Convict Settlements. This is another case of a criminal tribes settlement. It has been in existence at Khanapur for a number of years and the inmates of the settlement are employed on Forest Department work. It has hitherto been paid for by the Forest Department budget. It has, however, been now considered that it would be fairer if it were paid for by the Jail Department budget. We were all agreed about this, and unfortunately in the agreement we both forgot to make provision for this item in the budget. Therefore, there was no definite estimate included either in the Forest Department budget or in the Jail Department budget. The settlement at the same time was in existence, and was going on and had to be paid for. We went into the cost and we managed to reduce it by about Rs. 3,000 to Rs. 18,811. We have managed to find Rs. 10,500 out of the money provided under Criminal Tribes Settlements, but we have not been able to get the remaining Rs. 8,311. The Criminal Tribes Settlements grant, therefore, being insufficient to the extent of Rs. 8,311, I have to ask that the Council will sanction this amount from the reserve.

Rao Saheb D. P. DESAI (Kaira District): Sir, it is surprising that such a large institution or department was quite forgotten at the time of framing the budget, and I see from the remarks made in the statement that the inmates of this criminal tribes' settlement are employed by the Forest Department on some forest work. I want to know whether they will have to be paid for their labour by the Forest Department or not. Again the charge appears to have been met from the reserve; I thought the reserve would not be

[Rao Saheb D. P. Desai]

touched, but every Member of Government seems to have taken advantage of it, and I wonder whether anything is left of it or not.

Question put and agreed to.

"Supplementary grant of Rs. 14,800 for grant-in-aid to the veterinary dispensary at Sukkur."

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I move for a supplementary grant of Rs. 14,800 for a grant-in-aid equal to a moiety of the cost of the veterinary dispensary at Sukkur.

A building grant of Rs. 17,606, equal to half the cost on account of the construction of the dispensary at Sukkur, was paid by Government in the year 1920-1921. This amount of Rs. 14,800 represents half the amount awarded by the land acquisition officer on account of compensation for the land acquired for the dispensary, which is to be paid with interest till the date of payment. The award was received by the district local board on the 22nd March 1922, but the board did not apply for payment of the Government share before the 31st March 1922 from the last year's budget grant, when provision was available. No provision has been made in the current year for building grants to veterinary dispensaries, and if this money is not paid this year, it will then be claimed with interest. Therefore, I request that this amount be transferred from the reserve to the head "34, Agriculture."

Mr. B. G. PAHALAJANI (Western Sind): Mr. President, I would mention for the Honourable Minister's information that the award which has been made by the land acquisition officer has been referred to the District Court on the application of the owner. Therefore, the statement that, if the money is not paid now, interest will have to be paid cannot be correct, because the owner has refused to accept the amount of the award, and until that amount is settled by the District Court, no interest can be charged. I am cognisant of these facts because a similar application, not in terms of the amount, but one-fourth of the amount that was necessary, was made to the municipality to which I belong. The municipality also was of opinion that, as the amount was undetermined, all that they had to do was to pay one-fourth of the amount. Therefore, so far as this statement represents exactly the compensation that has to be paid, it is not correct, because it is *sub judice* yet under the Land Acquisition Act, and the District Judge has not yet adjudicated as to the exact amount that is to be paid or the exact claim that is to be met.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I do not know from where my honourable friend has obtained this information. The officials concerned have stated that there is a demand made for the amount, and we are told that, unless that amount is paid, we shall have to pay interest on it.

Question put and agreed to.

"Supplementary grant of Rs. 40,000 for construction of a sea-wall at Gogho."

The Honourable Sir CHIMANLAL SETALVAD: Sir, I beg to move for a supplementary grant of Rs. 40,000 under "27, Ports and Pilotage" for the construction of a sea-wall at Gogho. Honourable members will see, Sir, that it is clearly a question of transfer from one head to another. The Government of India have decided that provision for roads and buildings only should be made under the head "41, Civil Works." Rs. 40,000 was provided under that head for the construction of a sea-wall at Gogho and it has now to be transferred

[Sir Chimanlal Setalvad]

from "41, Civil Works in charge of Public Works Officers" to "27, Ports and Pilotage". No addition is proposed.

Question put and agreed to.

"Supplementary grant of Rs. 19,500 for completion of the work of demarcating boundaries between districts in Sind."

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, I beg to move that a supplementary grant of Rs. 19,500 be made for completion of the work of demarcating boundaries between districts in Sind.

An estimate for the work amounting to Rs. 30,572 was first sanctioned by the Chief Engineer. The estimate was afterwards revised to Rs. 35,784 which the Chief Engineer was competent to sanction. The additional allotment is, therefore, required to meet this excess. The total allotment for the completion of the work now required by the Chief Engineer is Rs. 19,500. The sum of Rs. 15,500 is provided under item 120 under "41, Civil Works Provincial" current budget. It is now proposed to transfer the whole amount of Rs. 19,500 (Rs. 15,500 already provided for *plus* Rs. 4,000 additional) from the Public Works Department budget to the Civil budget, *i.e.*, from "41, Civil Works, Provincial" to "5, Land Revenue."

## NON-OFFICIAL BILLS.

### BILL FURTHER TO AMEND THE BOMBAY HEREDITARY OFFICES ACT, 1886.

(Motion for leave to introduce the bill.)

Mr. S. T. KAMBLI (Dharwar District): Sir, I beg leave to introduce the bill further to amend the Bombay Hereditary Offices Act. Sir, section 2 of Bombay Act V of 1886 lays down that, in case of watan properties, every female member of a watan family except a widow of the last male holder is postponed in order of succession to every male member of the family in fact, however distant he may be in the line of succession. That is the law that has been laid down by section 2 of Bombay Act V of 1886. By the amending bill. ....

The Honourable the PRESIDENT: The honourable member should merely ask for leave to introduce the bill and sit down. I shall then put the motion for leave to introduce the bill, and if any honourable member says he desires to oppose that motion, I shall call upon the honourable mover for a brief explanatory statement, and after that for a brief opposing statement from the honourable member opposing.

Mr. S. T. KAMBLI: Sir, I beg leave to introduce this bill further to amend the Bombay Hereditary Offices Act V of 1886.

Mr. G. C. BHATE: Sir, I formally oppose the motion for leave to introduce this bill.

Mr. M. A. HAVELIVALA: We ought to have some explanatory statement from the mover, Sir.

Mr. B. V. JADHAV: Sir, I rise to a point of order. The honourable member for Kolaba district says he opposes formally, but I do not know what that form is.

The Honourable the PRESIDENT: That does not matter. The honourable member for the Dharwar district may now make a brief explanatory statement as the motion for leave to introduce the bill is opposed.

Mr. S. T. KAMBLI: Sir, in order to explain why I beg leave to introduce this bill, I shall be obliged to refer to section 2 of Act V of 1886. By that section, all female members of a watan family except a widow of the last male holder are postponed to every male member of the watan family however distant he may be in the line of succession. That is to say if A is a last member of the watan family and he dies leaving behind him his mother and paternal grand-mother and some distant cousin, that distant cousin will inherit the property to the exclusion of the mother and the paternal grand-mother. Sometimes the result has been that the mother and the paternal grand-mother who otherwise would have been entitled to succeed to the property of a widowless and childless watandar would be obliged to go to a civil court to sue *in forma pauperis* for their maintenance from a distant cousin of the last male holder. This creates, and has created, very serious injustice to the widowed members of the watan family. To remove this injustice I propose to make an amendment in section 2 of the amending Act of 1886 by inserting the words "mother" and "paternal grand-mother" after the word "widow". So the section when amended will read thus:

"Every female member of a watan family except a widow, mother and paternal grand-mother of the last male holder will be postponed in the line of succession, etc."

That is to say, widows of the family will be entitled to inherit according to the ordinary law of inheritance. They will not be obliged to depend for maintenance on a distant divided member of the family who will come in under section 2 of Act V of 1886. Sir, the principle seems to be.....

The Honourable the PRESIDENT: That is going into arguments. Only a brief explanatory statement is allowable under the standing orders.

Mr. S. T. KAMBLI: My only object is to remove that injustice. The object of Act V of 1886 will not in any way be affected. The object of that Act was that the watan property should not leave the family. By the amendment which is proposed, the watan property would not go out of the family. The mother and the paternal grand-mother are widows of the family, and so the property would not go outside the family and as widows they will be debarred from alienating the watan property to any outsider or stranger. So, to remove the obvious injustice, I propose to add the words 'mother and paternal grand-mother' after the word 'widow.'

Mr. G. C. BHATE (Kolaba District): Sir, I have nothing to say.

Leave to introduce granted and bill forthwith introduced.

## BILL TO AMEND THE BOMBAY RACE-COURSES LICENSING ACT, 1912.

The Honourable the PRESIDENT: Now, as to the next bill, a bill to amend the Bombay Race-Courses Licensing Act, 1912, it has been disallowed by His Excellency under section 80-C of the Government of India Act, which runs thus:

"It shall be not lawful for any member of any local legislative council to introduce, without the previous sanction of the governor, lieutenant-govenor or chief commissioner, any measure affecting the public revenues of a province, or imposing any charge on those revenues."

This section embodies the practice in the House of Commons, which is stated by Sir William Anson in his *Law and Custom of the Constiution*, as follows:—

"The responsible advisers of the Crown, the ministers of state, are alone capable of proposing that public money should be raised, or if already raised should be spent; and the

[The President]

House would not entertain a motion by a private member for a specific outlay on any object which he might consider deserving of public support. The relations of Crown, Lords, and Commons in respect of money grants cannot be better stated than in the words of Sir Erskine May :—

'The Crown demands money, the Commons grant it, and the Lords assent to the grant; but the Commons do not vote money unless it be required by the Crown; nor impose or augment taxes, unless such taxation be necessary for the public service as *declared by the Crown through its constitutional advisers.*'

"Such a rule is the great safeguard of the tax-payer against the casual benevolence of a House wrought upon by the eloquence of a private member: against a scramble for public money among unscrupulous politicians bidding against one another for the favour of a democracy."

## MOTIONS TO AMEND STANDING ORDERS AS AMENDED BY THE SELECT COMMITTEE.

The Honourable Mr. C. V. MEHTA : Sir, I beg to submit the report of the select committee appointed to consider motion No. III of 1922 to amend Standing Orders, which has been circulated with the agenda. I move that the amendments as reported be adopted.

*Motion read clause by clause.*

*Clause 1.*

In Part XI of the Standing Orders—

For Order 1, the following order shall be substituted, namely :—

"A copy of the Budget and the detailed estimates shall be placed upon the table for the use of the members of the Council on the day of the presentation of the Budget and shall also be despatched to each member of the Council at least fourteen days prior to the first of the days allotted for the voting of demands for grants under Rule 27.

"Provided that any delay in the presentation or the despatch may be condoned by the President in the case of any circumstances beyond the control of Government.

"Provided also that at least seven days shall elapse between the first day of the session when the budget is to be presented and the first day of the voting of demands."

Clause ordered to stand part of the motion.

*Clause 2.*

In Part XI of the Standing Orders, in Order 3 *for* the words "before the date appointed for the session of the Council at which the motion is to be made" the words "before the first day of the voting of demands for grants under Rule 27", shall be substituted.

Clause ordered to stand part of the motion.

Motion put and agreed to.

## DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST.

Rao Bahadur R. R. KALE (Satara District) : Sir, I wish to ask leave for priority to introduce a resolution relating to grants for secondary education. That resolution forms part of my resolutions. It would not take a long time and it is a matter of urgency. The Honourable Minister has agreed to this, and as the matter is urgent and the discussion is not likely to take much time, I propose that I be allowed to move that resolution now.

The Honourable the PRESIDENT : Is it within the power of the Chair to give you priority ?

Rao Bahadur R. R. KALE : Yes, Sir, according to the Standing Orders.

The Honourable the PRESIDENT : The President may give priority to any item of such business, that is non-official business.

Mr. M. A. HAVELIVALA (Bombay City) : I wish to point out that priority ought not to be given, unless a special case of great importance was made out. Apart from that, there are other resolutions of equally great importance which ought to be dicussed in their turn.

The Honourable the PRESIDENT : Unless the circumstances are of a very extraordinary character, I do not think I ought to give priority to any resolution.

Rao Bahadur R. R. KALE: Mr. President, the matter is likely to affect the grants this year of a large number of schools who have been carrying on secondary education. They have been carrying on an agitation, and have petitioned this House that the matter may be decided in this session. Otherwise their grants are liable to be suddenly cut off, and it is for the House to consider that this is a matter of urgency; but unfortunately the honourable member for Bombay objects. It is a matter of urgency; I would not have pressed for it otherwise.

The Honourable the PRESIDENT: In any case, I think the House will be sitting to-morrow, unless we are going to close to-day?

Honourable Members: No, no.

The Honourable the PRESIDENT: In that case, the honourable member for Satara may renew his request for priority to-morrow.

Rao Bahadur R. R. KALE: Very well, Sir.

Rao Bahadur S. D. GARUD (West Khandesh District): Mr. President, the resolution which stands in my name reads as follows:

"This Council recommends to His Excellency the Governor in Council that a committee be appointed to consider the question of readjusting the existing division of Khandesh for revenue and judicial purposes."

Sir, I am encouraged to bring this resolution because of what His Excellency the Governor said to us in his reply to the address presented to him by the district local board of West Khandesh. The district local board of West Khandesh put the case for the partition before him, and we were able to convince His Excellency of the justice of our claim. I wish briefly to read the case as put before His Excellency by the district local board, and it is as follows:

"The uneven partition of the Khandesh district in 1906 left our district local board with an income of Rs. 2,02,000 out of Rs. 5,33,000, with a population of 4,69,743 out of 14,29,197 and with an area of 5,195 square miles out of 10,046 square miles.

"The partition mainly followed the lines of the division which was then adopted for their purposes by the Forest Department. The districts were unequally divided in points of revenue and population, and though West Khandesh....."

The Honourable the PRESIDENT: What are you reading from?

Rao Bahadur S. D. GARUD: I am reading from the address of the district local board, which presents the case for the readjustment of the existing division, and I propose also, with your permission, to read briefly a sentence or two from the reply of His Excellency, which will show the House that His Excellency was convinced that the case which we put before him was just, and I shall then briefly support these salient facts with a few other figures that I have got. The address to His Excellency further stated:

"The districts were unequally divided in points of revenue and population and though West Khandesh is larger than the other district in area, it has a very large proportion of reserved forest and one taluka is mostly taken up by the Mewas estates. The distribution included in the West Khandesh district all the talukas notorious for their bad climate, a poor, ignorant and unadvanced population and a small revenue paying area and gave to the other district all the talukas with a good and salubrious climate, more than double the population which is rich and progressive, and a cultivated area which yields nearly twice the revenue. Thus the responsibility of developing the malarial and backward portions of the old district was transferred to this district local board without the advantage of the income of the other board."

And then we requested His Excellency that the revenue partition be reopened at the time of the judicial division which has yet to be made, and opportunity be taken to make a fair and equal division of the old disrtrict. In his reply, His Excellency said:

"This district, as you say, is in a rather remote part of the Presidency, and some parts of it are wild and inaccessible, with a population which is consequently comparatively poor and ignorant.

[Rao Bahadur S. D. Garud]

"I am glad therefore to have this opportunity of seeing a little of the district for myself and of learning at first hand from you all about your activities, your ambitions and your requirements. In particular, I have been much interested to hear your views with regard to the partition of Khandesh which you characterise as unequal, and I confess that the figures you have quoted do appear strongly to support your contentions that yours is the greater responsibility, while your share of the income of the old Khandesh district is disproportionately small. I will see that this matter is taken up by Government, and I will ask the Commissioner to report his views on the request you have made."

The Commissioner of the Central Division will, I hope, be able to present to the House his views on this matter, and enable this House to come to a decision on this very important question, which has been agitating the minds of people in West Khandesh from 1906. The partition has not yet been complete. It is still open, and the judicial partition of the district, which was to have taken place with the revenue partition, is yet to take place. This will, therefore, be an opportune time to consider whether the old district cannot be more fairly readjusted than it has been in the past. In the past, this division mainly followed, as has been said in the district local board's address, the lines of the division adopted by the Forest Department. In one district there were large tracts under forest, and in the other there was a large cultivated area with very little forest. Therefore, under that division, eight talukas went to one district and 13 talukas of the other were grouped into one separate district for forest purposes, but this division, for revenue and judicial purposes, was entirely unfair to the old district. When this division was adopted for revenue purposes, it was found that it gave to the new district an unusually large amount of revenue, an unusually large amount of the population and an unusually large amount of cultivated area. There are, in the eight talukas which are assigned to West Khandesh, really two talukas which bring in practically all the revenue that is derived from land in West Khandesh. I shall merely refer to a few figures which will show that the partition has practically given one-third of the old assets to the old district, and has given two-thirds of nearly all the assets to the other district. For instance, in 1906 the population in East Khandesh was nearly ten lakhs and the population in West Khandesh was 469,000. The population in 1921 in East Khandesh was 891,000, or nearly nine lakhs and in West Khandesh 560,000. In point of revenue, East Khandesh had Rs. 3,31,000 in 1906 and West Khandesh had Rs. 2,02,000 while in 1921 this revenue of Rs. 3 lakhs in East Khandesh went up to Rs. 8,30,000, and in West Khandesh it remained at Rs. 3,53,000. In point of area too, though West Khandesh is slightly larger than the other district, in point of the number of villages in both districts, and in point of cultivated area in both districts, East Khandesh is practically two times its superior. The number of talukas, as I have just pointed out, was, including pethas, 13 in East Khandesh. There are no pethas now in West Khandesh, because the one there was has been recently converted by readjustment into a taluka, and the pethas in East Khandesh which are two in number will, it is presumed, be converted into talukas by small readjustments, by taking over a few villages from the adjoining talukas, so that the number of talukas in East Khandesh is thirteen and the number of talukas in West Khandesh is eight. All I ask is that at least three more talukas and one petha, namely, Amalner, Parola, and Chalisgaon with Bhadgaon Petha should be given to West Khandesh, so that the old district will have at least eleven talukas, and the East Khandesh district will then under the new arrangement have ten. Even this addition will only add about 274,520 people to the population of West Khandesh and West Khandesh

[Rao Bahadur S. D. Garud]

will then have only 131 to the square mile to 273 to the square mile in East Khandesh. The number of courts is six in East Khandesh and three in West Khandesh and the number of members who are returned to the Legislative Council from East Khandesh is three as against only one member from West Khandesh. In fact, East Khandesh is regarded even by Government as perhaps the heaviest worked district in the Presidency and West Khandesh as the lightest worked district. When East Khandesh has separate courts of its own, it will have litigation about 2½ times the amount of litigation in West Khandesh. At present the number of regular suits is about 2½ times more from East Khandesh than from West Khandesh and the same will be the case with regard to other litigation. The population per square mile in East Khandesh is almost twice that in West Khandesh. It is 273 per square mile in East Khandesh. So, East Khandesh is greater than the other district and West Khandesh is much less than that, and it is therefore fair to the inhabitants of the district to readjust this partition now, when the judicial partition comes to be introduced to readjust it in the light of these figures. All that we ask is that the old district gets its fair share of the revenue.

With these words, I hope that since we have been able to convince the head of the Presidency, Government will take a sympathetic view of our demands and try to meet them and remedy this grievance which has been rankling in the minds of the people of West Khandesh for so many years.

The Honourable Sir IBRAHIM RAHIMTOOLA: Mr. President, I will say at once that I think the honourable mover has succeeded in making out a *primâ facie* case for consideration.....

Rao Bahadur S. D. GARUD (West Khandesh District): Have I no right of reply?

The Honourable the PRESIDENT: An honourable member of Government has the last word of reply under the Standing Orders. The Honourable the Leader of the House, I take it, is using that privilege. The honourable member for West Khandesh will have in that case no right of reply. Would it not be fairer that the Honourable the Leader of the House should expound Government policy? The honourable mover might then reply and after that the Honourable the Leader of the House might exercise his right of the last word.

The Honourable Sir IBRAHIM RAHIMTOOLA: I leave the procedure entirely in the hands of the Chair. If I had been allowed to go on, I think in two minutes the honourable mover would have been satisfied with the attitude Government propose to take and the question would have been disposed of. If you decide that the honourable mover shall have a right of reply, and that I should then speak again, I have no objection.

The Honourable the PRESIDENT: A position which is rather unusual has arisen. There is only a speech by the mover of the resolution. No other honourable member from the non-official or official benches has risen to speak except the Honourable the Leader of the House who is the Government Member in charge of the department concerned. The Honourable the Leader, I understood when he rose, was exercising his right of the last word. Hence my suggestion.

*After recess.*

The Honourable the PRESIDENT: Order, order.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, I will say at once that the honourable mover of the resolution has succeeded in making out a *primâ facie* case. It will I think be necessary to hold a departmental enquiry by Government in order to verify the various statistics which the honourable mover has quoted, with a view to ascertain whether in the interest of efficiency in the administration any readjustment of the existing division of Khandesh for revenue and judicial purposes is desirable. Government cannot of course accept the proposal to appoint a committee to enquire into this matter. I do not think that the House would accept the procedure of Government by committees. It is an expensive thing and leads to delay in deciding administrative problems. The case made out by the honourable mover is one which will receive the careful attention of Government. I assure the honourable mover that Government propose to hold a departmental enquiry to ascertain all the facts and to see if any action is required in the direction indicated. I hope the honourable mover will withdraw his resolution on this assurance.

Rao Bahadur S. D. GARUD: I beg leave of the Council to withdraw my resolution.

Resolution by leave withdrawn.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Sir, I do not propose to move my resolution *re* revision of survey settlements in alienated villages after the assurance given by the Honourable the Leader of the House, to a question of mine on the subject.

Mr. S. T. KAMBLI (Dharwar District): Sir, I beg to move the following resolution:

"This Council recommends that steps be taken to appoint three probationers to the posts of mamlatdars in the Southern Division of the Bombay Presidency this year from qualified non-Brahmins."

Sir, in the budget as was presented to this Council during the February and March session of the Legislative Council on page 124 of the Blue Book, there was in item No. 2, a provision for entertaining three probationers for the upper branch of revenue service for the Southern Division. When that item came up for discussion, the honourable member for Western Sind, Mr. B. G. Pahalajani, moved for the omission of the item. When that item was taken up for discussion the honourable nominated member for Satara opposed the motion for omission, and the honourable member for Western Sind, Mr. B. G. Pahalajani, asked for leave to withdraw his motion, and the motion was withdrawn, with the result that that item was allowed to stand part of the budget. But, Sir, since then so many months have passed and no steps have been taken for the entertainment of three probationers for the post of mamlatdars in the Southern Division. Sir, looking to the number of posts held by Brahmins and non-Brahmins in this important branch of the Revenue Department in the Southern Division, it will be seen that, though the percentage of population of the Brahmin community to non-Brahamins is in a ratio of 5 to 95, the ratio of appointments held by Brahmins and non-Brahmins in this particular branch of service bears no proportion to the population. In fact, the preponderating element in this important branch of public service is Brahmin. The result has been, so to say, the monopoly of these posts by the Brahmin community, which is numerically very small. The only way to remove this inequality is by making direct appointments to these responsible posts from qualified non-Brahmins, as is done in Sind in the case of Mahomedans with regard to the appointment of mukhtiarkars. The direct appointment to posts of mukhtiarkars

[Mr. S. T. Kambli]

from qualified Mahomedans has restored a healthy equilibrium in Sind. So, I beg to submit to this House that a similar healthy result would follow in this important branch of public service in the Southern Division, if my resolution is adopted. The mamlatdars carry a large amount of influence with the villagers. The persons holding these posts are invested with powers to do good or evil. The village population mostly consists of non-Brahmins. There is hardly a house or two of Brahmins in any particular village. So, these posts of mamlatdars should be, according to the ratio of population, held by a majority of non-Brahmins, if the good of the rural areas is to be taken into consideration. I need not, in moving this resolution, refer to the effects of monopoly of service by any particular community. When the villagers have got any grievance, if they happen to go to mamlatdars—I do not refer to any individual mamlatdars, but it has been the lot in several districts in the Southern Division—their grievances are generally disregarded. Sometimes their grievances are misinterpreted. So, in order that officers may have sympathy for the grievances of the villagers, in order to remove their grievances, I beg to submit that this Council should adopt the resolution which asks for "steps to be taken to appoint three probationers to the posts of mamlatdars in the Southern Division of the Bombay Presidency this year from qualified non-Brahmins." I do not wish that efficiency in the least should be impaired. Sometimes it has been urged that efficiency of administration is the condition or consideration by which an appointment should be made. I do not even for a moment desire that efficiency should be impaired in any way. What I mean is that qulaified non-Brahmins should be appointed. So, on this point of efficiency there is no objection to the resolution being adopted. As I have said, the interests and sentiments and feelings of 95 per cent. of the population ought to be respected. If their grievances are to be remedied, I strongly recommend to this House that this resolution should be carried

Mr. L. J. MOUNTFORD: Sir, since the remarks that I made some months ago in this House, I find there has been a considerabe improvement in those figures, which I believe will satisfy this House. I find in the Southern Division, from the number of candidates, Brahmin and non-Brahmin, there is an increased proportion of non-Brahmin candidates. That, I think, will satisfy the honourable member and this House that there is no cause for a feeling of despair. On my list of recruits or candidates I have 87 Brahmins and I have 33 non-Brahmins. We must consider the fact that it is only in recent years that non-Brahmins have taken advantage of education and come forward, I do not say in adequate numbers but in more satisfactory numbers, to fill the higher appointments in the different departments. But, if the House adopts this resolution to appoint three probationers to the posts of mamlatdars from non-Brahmin candidates, we have, first of all, to consider who should be given the posts. The appointments of mamlatdars are made according to the number of talukas and we cannot increase the number of mamlatdars. We have 5 vacancies on an average a year and under the terms of their employment the direct recruits are entitled to 50 per cent. of the vacancies or 2½ a year. Now, we have 87 Brahmin recruits and we have also 33 non-Brahmin recruits including direct recruits, also waiting for their posts of mamlatdars. If we appoint these three probationers, either they must wait until these 33 non-Brahmin recruits could be disposed of, which at the rate of 50 per cent. of the vacancies, *i.e.*, 2½ a year or so would be in 16 years, or they will take their place and destroy the whole of the chances of these 33 worthy

[Mr. L. J. Mountford]

non-Brahmins who are qualified for mamlatdars' posts, to their very great disappointment.

Therefore, I trust this House will not support this resolution, but will leave it to Government to look after the interests of all classes and all castes without giving any preference above those who have the right of expectation and whose prospects are most carefully being looked after by Government and most carefully being looked after by the Commissioner.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, I am sorry I cannot support the resolution. I support the policy of Government I have great sympathy with the backward classes, but on principle I oppose every member's asking for special rights for certain classes. If anybody requires special rights in the Northern Division in the matter of these posts, it is the Parsi community, who are in a minority there, and there have not been any Parsi mamlatdars or deputy collectors there. But I do not consider it in order to support my own individual community and would ask for even-handed justice for the people. Our people should not fight every time, in season and out of season, and ask Government to reserve seats for their own individual community. We must work and stand upon our own legs, and if we are qualified, there is no reason why Government will not, in the discharge of their duties in having an efficient administration, appoint those whom they may consider the fittest for the work of administration, due regard being had to the matter of giving representation to all communities. With these remarks, I beg to oppose the resolution.

Mr. B. V. JADHAV: Sir, I beg to support the resolution moved by my honourable friend from Dharwar. I am very sorry, Sir, to have again to refer to the grievances of non-Brahmins, but the social economy of the Central and Southern Divisions has been such that, although very large in the number of population, we are the most neglected portion in the official class. I need not say anything about the causes that have led to the neglect of our people. Our people did not take advantage of education so long, but they are now realising the necessity of educating their young men and the Brahmin-non-Brahmin controversy has been becoming bitterer every day in the districts of the Southern and Central Divisions. The Brahmin officers, with a few honourable exceptions, are doing their best to put down the others, and it is but just that the non-Brahmin officers should increase in number. Up to this time, our claims were not put forth with sufficient emphasis and others got a start before us. But now, when we are offering efficient candidates for the higher services, there is no reason why preference should be denied to us. The condition of the Mahomedans in Sind, Sir, was on a par with the condition of the backward communities in the Central and Southern Divisions. The Mahomedans are in a majority in the province of Sind, but in the ranks of officers the Hindus far outnumbered them, and the Mahomedans saw that it was a great injustice to them. Then Government recognised the justice of their claim and passed a resolution that a certain number of mukhtyarkars should be recruited from among the Mahomedans every year. The pursuing of this policy consistently for a number of years, Sir, has helped to recover the balance and has resulted in amicable relationship among the various classes. We do not ask anything more than that. We have been neglected so long, and we pray to Government that we should be treated with the same kind of leniency with which the Mahomedans of Sind were treated.

[Mr. B. V. Jadhav]

And I am quite sure that if this piece of justice is done to us the interest of the two Divisions will not suffer. We claim preference for our efficient young men. We do not want to ask Government to give posts to candidates who are inefficient or otherwise unsuitable. I repeat that only the efficient ones should be given a preference. If Govenment followed a policy of making a list of candidates of both Brahmins and non-Brahmins and appointed men in proportion to the number of applicants from each class, then years and years and decades will pass away before non-Brahmins in sufficiently large numbers can be expected to get in. The other day the Honourable Minister of Education in answer to a question of mine in this House said that last year 60 vernacular teachers' posts were filled in the district of Satara and although there were 500 efficient non-Brahmins, the deputy educational inspector selected only 35 of them and gave 25 posts to the Brahmin candidates whose number in the population is less than 4 per cent. and who are in the educational service more than 75 per cent. But the deputy educational inspector wanted to favour Brahmins and allotted the posts in proportion to the number of applications. According to the figures supplied by the Honourable Minister of Education there were 350 applications from Brahmin candidates and 500 applications from non-Brahmins and the distrubution was in proportion to the number of the applications from each. If this principle, which may appear very sound to some persons, but which does not appeal to me, of allotting posts in proportion to the number of candidates be followed then good-bye to all our hopes of getting an adequate share in the services of the State. We know that the number of graduates and double graduates and treble graduates belonging to the Brahmin community is so very large that for very many years to come the number of applicants from those classes will far outnumber the candidates from the backward communities and therefore, Sir, I pray to Government to pass a resolution or an order on the lines of a resolution passed in favour of the Mahomedans of Sind. With these words I heartily support the resolution brought forward by the honourable member from Dharwar district.

Mr. G. B. TRIVEDI (Thana District): I congratulate the honourable mover as well as the honourable member who preceded me on the moderation with which they have put forward their claims, and I see a great deal of justification when they say that they demand the same privilege that was given to the Mahomedans in Sind. The Government have recognized this principle for one community, and I feel that Government cannot disallow that resolution or that principle, and cannot in justice deny this demand of the backward classes. But, Sir, as the honourable member, the Commissioner, Southern Division, has put it, if it were a practical proposition I would certainly support it. It is but fair that, if a province is inhabited by 95 per cent. of a certain community, as the honourable mover has said, the people should like that they should have in the administration a greater share than they have at present, and from that point of view the resolution has our sympathy. But as the honourable member the Commissioner, Southern Division, showed, we cannot begin with a clean slate. We cannot dismiss the present mamlatdars; and I think with that assurance he will look to the claims of the non-Brahmin community when the next opportunity occurs. I must, after showing my sympathy with the spirit of the resolution, as it is not a practical proposition, say that the honourable mover will be well advised in withdrawing this resolution. With these remarks I resume my seat.

Mr. S. P. LIGADE (Sholapur District) (Addressed the House in Marathi): Mr. President, in supporting this resolution I want, in the first place, to bring to the notice of this House the urgent necessity and usefulness of the principle enunciated in this resolution. It is a matter of common knowledge, Sir, that the Revenue Department is at present flooded with Brahmins and from the talati at the bottom to the mamlatdar and deputy collector at the top you will find the whole administration full of Brahmin officers. The result of this has been that the complaints of the poor ryots never reach the Sirkar at all. In all the movements which are taking place, including the movement of non-co-operation, you will find the inner sympathy of these Brahmin officers, although outwardly they show they are against such a movement. You will find that these Brahmin officers are always giving much trouble to the members of the backward classes. I can quote my own example. Now, I am a member of this Council and therefore I can at least lay my grievance before you, and before the higher officials. Still, you will find that even a man in my position is troubled by these Brahmin officers by bringing various false charges, simply because they find that I am always trying to help my own community in many ways, and I am especially bringing their grievances against these officers to the notice of all high officials. Now, just imagine what may be the state of other illiterate people when a non-Brahmin leader of my position finds himself in such predicament owing to the oppression of these Brahmin officers. Now, Sir, the only remedy to put a stop to such a state of things is to have non-Brahmin mamlatdars. Take for example a taluka like Sangola. There you will find that the mamlatdar, the fouzdar, the sub-registrar, the aval karkun, the doctor and in fact each and every responsible officer is a Brahmin. Now what justice can the poor non-Brahmin ryots get from this clique of Brahmin officers who you will find are always misusing their powers, especially to the disadvantage of the poor non-Brahmin ryot? You will find, Sir, the same state of affairs in the Satara district also. Now, because I have been always trying to bring this deplorable state of affairs to the notice of this Council and the Government, the Brahmin officers of my taluka endeavour by detaining the motors of my respected guests and trying to search my house without any grounds and in every othe possible way to take my *Abru*. Not only this, but in my absence it is learnt he is trying to collect false evidence against me. However, I am sure I will get an impartial justice at the hands of the present Deputy Collector Mr. DeSouza or the British officers, the District Superintendent of Police or the District Magistrate. If some honourable members will take the trouble and go with me to my taluka, I am sure they will find the truth of what I have been stating to this Council. If the steps suggested by this resolution are taken by Government I am sure Government will be doing an immense good to the non-Brahmin ryot. With these remarks I resume my seat.

Mr. B. G. PAHALAJANI (Western Sind): Sir, I rise to support the resolution. I rise because the province of Sind has an analogy to offer in relation to this case. I think it is but fair that when a policy has been followed by the Bombay Government in the province of Sind, for which I think they claim success, a similar policy should be followed in other parts of the Presidency. I think honourable members of the Council know that Sind is a province where three-fourths of the population are Mahomedans and one-fourth are Hindus. There was a time when higher education in Sind was confined to one or two towns near Hyderabad. At that time the contest was Hyderabad *versus* the rest of Sind and not Mahomedan *versus* non-Mahomedan.

[Mr. B. G. Pahalajani]

The Government then interfered. The Collector of Sukkur, who served in Upper Sind, for the first time interfered to remove a stain from the policy of the Government by encouraging Upper Sind to take a share in the administration of the country. Then, when that was done the friction between two portions of Sind wore off due to a wise and discriminative policy of the Government. Then there came a time for a similar contest between the Hindus and Mahomedans of the province. When Mahomedans took to education, education produced in them a desire to advance in public service. For some time the Government officials were rather careful in according their unstinted support to their claims and there came a time in 1916 when the Commissioner in Sind, Mr. Lawrence (now the Honourable the Finance Member) seriously initiated a policy which now prevails to a considerable degree in Sind. I am referring to the definite policy of appointing four mukhtyarkars as probationers out of Mahomedan graduates. If I remember aright it was in 1918 that a recommendation was made by the Commissioner in Sind and accepted in a Government resolution by the Bombay Government. If I mistake not the present Governor gave definite assurance to that effect in answer to an address of a Mahomedan deputation in Sind. Though, Sir, I am a Hindu, and though in regard to certain matters I may express opinions not acceptable to my Mahomedan friends, yet when there is an excess number of members of a particular community in the public services, I think it is but fair that the claims of other communities should be recognised. If the Government is prepared to pursue a policy of equal treatment and conciliation, if the Government seriously intends to advance the claims of the other communities, the objections raised by my honourable friend the Commissioner for the Southern Division are not very serious. If Mr. Lawrence the Commissioner in Sind could follow a policy in Sind, I think it will not be difficult for the Commissioner, Southern Division, or the Commissioner of any Division, if he wishes to do so, to follow a similar policy in his Division. After all, it is the Commissioner that is the executive head of his province, who is responsible for the peace of his Division and for the good feeling between the different classes in his Division, and I am sure that if he places before the Government the claims of these communities, it will not be difficult for the Government to recognise those claims. The difficulty is not about the number of claimants. A few of the claimants can be taken as probationers and after training can be kept as a reserve on a smaller pay and then promoted into the higher service with better pay when vacancies occur. The introduction of three or four members into the service is not difficult at all. I would not have ordinarily spoken on this resolution, but I rose to speak because the Commissioner, Southern Division, showed somewhat his inability to carry out the suggestion. I say if there is a will there is a way. If the Commissioner in Sind could at one time do it, the Commissioner, Southern Division, can do it now, and the Government can accept his recommendations.

Mr. P. N. ADHAV (Satara District): Sir, I heartily support the resolution put before this House by my honourable friend from Dharwar. I cannot add much to the arguments which have been put forward by the various honourable members that preceded me, but I wish to clear the doubt expressed as to whether enough non-Brahmin candidates would be coming forward. As far as I know there are sufficient non-Brahmin candidates. They go to some place, they apply and wait for appointments, but when they find that there is no chance they go back disappointed. There are many instances in

[Mr. P. N. Adhav]

which Maratha candidates have found service in Indian States, though service in States is not so attractive nor as paying in the long run as service in British territory. With these words, I heartily support the resolution moved by my honourable friend.

Mr. D. D. GHOLAP (Addressed the House in Marathi): Mr. President, I have great pleasure in supporting this resolution for the appointment of three probationers to the posts of mamlatdars in the Southern Division of the Bombay Presidency this year from qualified non-Brahmins. If this resolution is accepted by Government, it will especially benefit the depressed classes in their economic, social and religious life. I wish briefly to refer to the injustice that is being done to the depressed classes under the present conditions. At present, in every taluka the Brahmins occupy the administrative positions in Government offices, and they maintain their sacredness or touch-me-not policy in the kacheri as much as in their houses. When the Mahars bring them vegetables and other supplies, they do not lose caste, but if a Mahar bringing a letter to the kacheri, gets thirsty, in the absence of separate arrangements for quenching his thirst, he will generally not get water to drink from the Brahmin official, and the poor man has to remain thirsty. If there be an honest non-Brahmin mamlatdar the untouchable classes would not be treated in this way.

I have been told that at a conference of the untouchables, the Collector wanted to be present, but he was not allowed to do so by the Brahmin officials. When the depressed classes wanted to give an address to His Excellency the Governor, putting before him their grievances, things were so arranged by the Brahmin officials that it could not be done. Because the Brahmins want to maintain their sacredness in their houses as well as in the offices, the depressed classes suffer. If there are non-Brahmin mamlatdars, the backward and depressed classes will be better treated, and the more the non-Brahmins are appointed to these posts, the better will it be. I trust Government will see that in the case of any future appointments to mamlatdars' posts, only non-Brahmins will be selected. With these words, I support the resolution.

The Honourable Mr. H. S. LAWRENCE: Mr. President, as my name has been brought into this matter by the last speaker but one, I think it is only right that I should explain to this House that there undoubtedly are very great difficulties in the way of carrying out this resolution, and that similar difficulties were experienced in Sind. Nevertheless, owing to the very great necessity of having a proper representation of Mahomedans in the higher ranks of the services in Sind, it was represented by myself to this Government, in 1917, that these obstacles, however great they might be, must be overcome, and, to some extent, they have been overcome. But there was, at the time, very great opposition from the Hindu community in Sind, and that opposition still continues. It is perfectly true, as pointed out by the Commissioner, Southern Division, that we cannot make direct appointment of men to the superior grade without disregarding the very just claims of men already in the lower ranks of the service, and the only answer to that objection is that in the highest interests of the State, it may be necessary that the interests of some of the members of the lower ranks of the service should, at times, be disregarded. It is a very serious responsibility. I was fully alive to it when I was in Sind, I am fully alive to it at the present moment. You cannot carry this measure out on a large scale, but when you have the greater part of the population placed under the authority of men with whom they are not in sympathy

[Mr. H. S. Lawrence]

it may become absolutely necessary to run risks and inflict the hardships to which the Commissioner, Southern Division, has made reference.

It must be a matter of very great gratification to this Council as it is to me to think that the policy which in Sind was so severely criticised by the Hindus has now gained a champion in the honourable member from Sukkur. I trust, Sir, that in Sind also he will use his influence to secure happier relations between the two communities, and to carry out the further development of this policy of justice to the Mahomedan officials in Sind.

Mr. S. T. KAMBLI ( Dharwar District ) : Mr. President, I am very thankful to the Commissioner, Southern Division, for explaining to this House the policy of Government hitherto followed, or intended to be followed by it hereafter, namely, the policy of securing a due admixture of castes in the administration or services of this Presidency. Sir, this policy, at times, when it is actively applied and brought into force has no doubt done good to the non-Brahmin communities in the Southern Division. But, Sir, what is of importance to be noted is that this policy is not adopted in an active form throughout, but by fits and starts only. Sir, in the past there were some probationers taken in service, and the non-Brahmins hoped to have the same policy continued. But, unfortunately, the incumbents for the post of the Commissionership of the Southern Division are not always the same. The appointments are made from time to time, and the new-comer allows a certain time to elapse before he gets sufficient knowledge of the conditions of the services in the Division. Naturally enough, he trusts to his subordinates to carry on the administration and follows the *laissez faire* policy, and does not want to worry himself. That is perfectly natural, but when the incumbent comes to actually realise the grievances of the various elements of the population, then to his own surprise, more often than not, he finds that the vacancies are filled up, or that the time for his transfer is nearing. This is the state of circumstances, and I am sorry to say that though the preponderance of the Brahmins in the posts of mamlatdars has been very great indeed, still, even in the matter of making appointments to the probationers' posts, the Brahmins in certain proportions are admitted. There was no necessity, if the policy laid down by Government was to be continued, for admitting any Brahmins for a certain time to come. If three posts are to be filled up by probationers, one at least goes to a Brahmin, as if, Sir, the Brahmin had an inalienable right every time a post had to be filled. I think people were right in drawing their own conclusions that Government would not forego the claims of Brahmins; that when a scheme like mine is placed before Government, though Government admit in all their speeches, in all their declarations, that there is great disparity in the number of Brahmins and non-Brahmins in the services and admit in so many words that that disparity ought to be removed, when opportunities arrive, I am sorry to remark, Sir, that Brahmins have been admitted though there was no resasonable ground or necessity for doing so. Perhaps it may be due to a certain policy which is not known to the public and if that is not known to the public, how can Government expect people to have faith in their declarations and their promises ? Now, Sir, there was an item in the budget, to which I referred in my opening speech in moving my resolution, which related to the necessity for making three appointments of probationers in the Southern Division. That came up to the stage of voting and was allowed to stand part of the budget. Now, I find to my astonishment that it is said that there is no necessity for making appointments to these posts.

[Mr. S. T. Kambli]

I perfectly agree, Sir, in the honourable member from Sukkur's statement which I feel is perfectly real in its significance, namely that where there is a will there is a way. I do not think, Sir, that the revenues of this Presidency will be overburdened to any serious extent or will be seriously affected by the entertainment of three probationers to the posts of mamlatdars in the Southern Division. Sir, my honourable friend, the member for Broach, referred to the claims of his community in the Northern Division and he showed a certain sort of broad-mindedness in saying that it does not follow that because his community is in a minority there that it should claim special rights. May I bring to the notice of this House, Sir, that the community to which my honourable friend from Broach belongs is not more than a l..kh in population in the whole of this Presidency? And looking to the number of the very high appointments held by that community, I do not know, Sir, what justification there was for him at all to refer to his community. I put it to the Council that when millions and millions of non-Brahmins are at present inhabiting the Southern Division, would it be right or proper or fair to apply the analogy of the Parsi community to the non-Brahmin community in a matter of this kind? I am glad to say that the community to which the honourable member from Broach belongs showed itself in its true colours (I am not disparaging them) when they claimed special protection in the shape of communal representation while the Bombay Municipal Act was being debated in this very House. It is very easy to show broad-mindedness when the interests of other communities are concerned. I only wish, Sir, that every honourable member of every community will view such questions from the stand-point of the best interests of the community affected and not from mere theoretical considerations.

There was one statement made by the honourable member that every community and every member must try to stand on his own legs. I perfectly agree with him in that statement, that everybody must try to stand on his own legs and should never try to stand on the legs of others. It is perfectly legitimate and desirable. But when we know that there is a certain monopoly exercised, when we know that the monopolists will add to their number, when we know that they will devise every trick and every means to add to their number and to the tyranny they practise, how can the other communities which are already decrepit or weak stand on their own legs unless they are supported by Government? It is very easy to ask other communities to stand on their own legs when that community is as small as the one to which my honourable friend belongs, but—I wish to emphasize this point—when the other communities find themselves in the position in which the non-Brahmins of the Southern Division find themselves at the present moment, I do not think that a statement like that would ever find approval in this House.

As I said, there is one way and one way alone of removing the grievance of the non-Brahmins; they have been bringing resolutions after resolutions in this House for the last two years; speeches thereon have been made, and yet our resolutions have gone unheeded and unattended to. When there is a special post of any kind wanted to be created by the Government supplementary demands are made and the Council is asked to vote them. But, Sir, when we on behalf of the millions and millions of people in the Southern Division only ask for a small thing, for a negligible thing, for the appointment of three probationers who are to be paid such a small salary as Rs. 75 per month, I am surprised to hear the statement made that there is no place for them in the vast field of administrative service in this Presidency. If that is the attitude of

[Mr. S. T. Kambli]

Government, if that is to be the policy of Government, if that is the declared policy of Government, what becomes of the declared policy of Government to have a due admixture of castes ? When people come foward asking for appointments, they are told that there are no vacant posts for them ; when there were suitable posts we were told there were no candidates for them. I doubt very much, Sir, whether the time will ever come at all when the non-Brahmins will find themselves taking their proper part in the administration of the country.

Now, Sir, there is one more thing which I wish to bring to the notice of this Council, namely that I moved my resolution not for the sake of the salary that would go with the posts—far be it from my mind—nor for seeking some secret information—far be it from me—but it is solely in the interests of 95 per cent. of the population of the Southern Division that I raise my voice in this Council. Now, Sir, we know how the monopoly of services tends to create a sort of a tyranny in the condition of institutions. We know that in the case of the institution called the Karnatak or Kanarese Training College for Men in Dharwar it actually happened that as there was a monopoly of service in the hands of Brahmins injustice was done to non-Brahmin students: those who brought their legitimate grievances or crimes committed by others to the notice of the authorities were themselves expelled and guilty students were allowed to remain in the college ! Was not that grievance and injustice remedied afterwards by the higher authorities themselves ? All that was due to one thing and one thing alone, because the whole staff has been composed of one community and one community alone. We have been trying to impress on the Government the necessity of changing this condition of things, we have been attempting to induce Government not to create a perpetual monopoly in favour of the Brahmins who represent only a fraction of the total population of the entire country. The only point I wish with all my heart to impress upon Government is this, that if they merely adopt a beneficent attitude in words and do not try to adopt a line of action to translate their words into practice, in other words, if they merely expect us to be satisfied with promises and not to look for a fulfilment of those promises, then I beg to submit, Sir, we shall be helpless and the very people whom we have come to represent in this Council will have no faith in their representatives, they will say their respresentatives are simply dummies ; that is a situation which I wish to avoid at any cost. With these words, Sir, I commend to this House the resolution which I have moved.

The Honourable Sir IBRAHIM RAHIMTOOLA : Sir, I wish to draw attention at the outset to the speech of the honourable member the Commissioner of the Southern Division, in which he reiterated the declared policy of Government that there should be an adequate admixture of castes in Government service. This policy has been announced repeatedly, and I do not think that any representative of the backward classes can fail to be satisfied with it. The issue really is the application of that policy ; the complaints that are brought forward are on the question of how the policy is actually applied in practice. Now, we shall examine this question. We have got to bear in mind certain facts in this connection and I can claim to be in a fairly good position to give expression to my views, because I myself belong to a backward community. (Honourable Members : No, no.) We have also been agitating on the same lines as the non-Brahmins are doing now. Recently I have acquired some knowledge and experience of how things work in actual practice in the application of that policy. I may tell the House that the backward classes did

[Sir Ibrahim Rahimtoola]

not take kindly to higher education when it was introduced and the result was that Government services became the monopoly of the forward classes. Government administration had to be carried on, and the best available material had to be employed. This is the cause of the vested interests to which reference has been made. Posts have been filled up and vacancies alone can go gradually to the representatives of the backward classes as qualified men among those communities become available. So far, I do not think my views will be challenged. It must be borne in mind that Government cannot deprive the rights and privileges of those servants of Government who may have accepted appointments in the expectation of gradual rise to higher posts open to them at the time of accepting their service.

The question becomes complicated in this way. There are two issues involved : first the admixture of caste is necessary, and in certain cases a certain amount of injustice may have to be accepted, as the Honourable the Finance Member observed, in the higher interests of the State. Therefore, the policy which the Government must adopt is to gradually replace the forward communities. It cannot be done all at once, and not appreciating this difficulty many complaints are made. I have tried to explain the whole position with regard to recruitment of Government services.

Mr. B. V. JADHAV : That is not the specific point raised in the resolution.

The Honourable Sir IBRAHIM RAHIMTOOLA : I will presently come to the specific point raised in the resolution.

I will now deal with the conditions in Sind to which reference has been made. As the Honourable the Finance Member has pointed out it is necessary in the higher interests of the State that special facilities should be given to backward communities to be associated in the administration of this province. Now, the conditions in Sind have been explained by more than one honourable member. The population of Sind consists of a very large majority of Mahomedans and the Honourable the Finance Member when he was Commissioner of that Division, for reasons which he has explained to this House, proposed in 1918 that four Mahomedan probationers should be appointed every year to the post of mukhtiarkars. This proposal was sanctioned by Government. The present Commissioner of Sind pointed out the difficulty in working this scheme which I wish to bring to the notice of this House. The difficulty was that sufficient vacancies could not be found for these pobationers. All the subordinate officials could not be passed over. The result was that these officers remained without being put into actual charge of these posts. The Commissioner in Sind wrote to Government that it was no use continuing direct recruitment of Mahomedans as probationers, because sufficient vacancies were not available. Further enquiries were made and after an experiment of two years the appointment of probationers in Sind had to be suspended. Having regard to that experience I ask the honourable mover of the resolution whether it would be wise to press the resolution and start appointing three probationers every year in the Southern Division. What are the facts which have been brought to the notice of the honourable House by the honourable Commissioner for the Southern Division ?

The Honourable the PRESIDENT : May I remind the Honourable the Leader of the House that the resolution asks for the entertainment of probationers for this year ?

The Honourable Sir IBRAHIM RAHIMTOOLA: Having regard to the fact that so much has been said about the policy adopted in Sind, I do not think the representatives of the backward classes would at all be satisfied with the employment of three probationers this year only. It cannot be. I, therefore, take it that the policy of entertaining three probationers every year is intended by the honourable mover. I, therefore, reply on that basis. The honourable member, the Commissioner for the Southern Division, has pointed out that there are 33 non-Brahmins who are on the subordinate list, and they will have to be provided for in the vacancies which will occur in mamlats. He estimates that there would be on an average 5 vacancies in that division during each year. Working on the basis that there are 87 Brahmins and 33 non-Brahmins in the subordinate Services and that all future vacancies are given over to non-Brahmins—this would hardly be fair to other subordinates in the Revenue Department who have joined the appointments in the expectation of rising to higher posts—it will take 6 or 7 years to provide for all of them. What is to happen then to those probationers who are entertained at the rate of three every year as intended?

It is not a question of finding appointments on a small salary, as the honourable mover said, for three non-Brahmins. Personally I do not think that they will be satisfied, as we the Mahomedans would not be satisfied, with a policy of that kind. It is necessary that honourable members should realise the difficulties of the administration and be content with the declared policy of Government which I am sure will be applied in the interests of the communities which the honourable mover and the other members represent and they will do their best to secure to them their legitimate share in the administration of the Presidency. My difficulty is the practical application of the policy which is enunciated by the honourable mover, and I say once more, as has been repeatedly urged in this Council, that the declared policy of Government is to see an adequate and due admixture of all castes in Government services, and that that policy will be applied in a manner which will safeguard the interests of the backward communities of this Presidency. I hope, after this explanation honourable members will be satisfied that the Government agree to proceed on the lines which are in accordance with their declared policy. The question of the subordinate revenue administration is even now under consideration, and if Government come to the conclusion that the policy of appointing probationers can be adopted, then I give this assurance that, when probationers are to be employed, the claims of non-Brahmins will be borne carefully in mind. I therefore trust that the honourable mover will be satisfied with the discussion which has taken place and with the assurance which I have given, and will not press this resolution to a division.

Question put and negatived.

Mr. C. M. GANDHI (Surat City): Sir, the resolution that I have the honour to move runs as follows:

"This Council recommends to Government the desirability of making the Jail Manual and other departmental manuals available to the general public for purchase at reasonable rates."

It is a matter of regret, Sir, that a resolution like this should have to be brought before a reformed Council. But, Sir, when we heard complaints and when we had been hearing of irregularities in the jail administration, myself and other members of this Council wanted to get or purchase the Jail Manual.

(At this stage the Honourable the President withdrew and the Deputy President occupied the Chair.)

[Mr. C. M. Gandhi]

We were told that copies of the Jail Manual were not available and could not be available to members even if they were inclined to pay for them. I wrote to the Home Department Secretary and to my great regret got no reply. It was after that, that with very great reluctance I gave notice of this resolution at the last session of the Council. I was then told that I should be satisfied if Government were kind enough to provide a certain number of copies in the library attached to this Council and I should withdraw the resolution, because it was not possible to bring the Jail Manual, published several years ago, up to date and the alterations and amendments made from time to time were so many that it was not possible to issue another edition. I was further told that it would be a very costly affair. Sir, I cannot understand why members of this Council, who are supposed to take an intelligent part in the administration of the country, should not be considered worthy of Government's confidence and should not be allowed to possess copies of the Jail Manual.

(At this stage the Honourable the President returned and resumed the Chair.)

Curiously enough, Jail Manuals, Police Manuals and such other departmental manuals, which are and could be supplied even to Indian States and other administrations, are not supplied to the members of this Council. I was told at that time that it was open to the members of this House to get copies of the Jail Manual issued in the library of this Council, and my honourable friend the member from Thana (Mr. Trivedi) wrote asking that a copy be issued to him and the reply was that it could not be issued. If, Sir, the administration of this Presidency under a reformed constitution is going to be responsible to the people, I really fail to understand how that could be done when all the important manuals which give considerable detailed information connected with the administration are not to be supplied to members of this House. I hope, Sir, that in order to remove a certain feeling of resentment which members of this House feel and a certain amount of resentment which the public now feels, Government will have the liberal-mindedness to declare that they have nothing to conceal from the people so far as their administration is concerned and make these manuals available to the public. With these words, I do not ask—nor do I think any honourable member of this House asks—Government to publish their confidential circulars, circulars which may be required to be kept confidential on the records of the State. But surely, Sir, all the detailed rules for the jail administration, all the detailed rules which regulate the conduct of policemen and the other Government resolutions and rules laid down by Government from time to time, which have the force of law and which people are called upon to obey, should not be considered as confidential. I hope, Sir, Government will see its way to accept this resolution, which is merely a modest demand on behalf of the members of this House, in order that they may take an intelligent part in the administration. With these words I commend my resolution to the acceptance of the House.

The Honourable Mr. M. H. W. HAYWARD: Mr. President, I am sorry to find my honourable friend still labouring under some sort of misapprehension with regard to the supply of these manuals. I thought that I had sufficiently explained matters to him on several occasions during the last meeting of this Council. I am glad however to be able to assure him now that save as regards any confidential manuals that there may be, there is no objection whatever to the principle of this resolution on the part of Government. (Honourable

[Mr. M. H. W. Hayward]

Members : hear, hear). I explained at the last meeting of this Council that the Jail Manual was an old edition which was published before it was known that it was likely to form popular reading with the public and it was therefore only printed to a limited extent for the use of the more studious members of the department and the services. The result unfortunately has been this that we have only got about 50 copies which we could fairly offer to the public.

Mr. C. M. GANDHI : Is it not a fact that there were 280 copies in the Government Central Press ?

The Honourable Mr. M. H. W. HAYWARD : I hope the honourable member will have only two minutes' patience. The unfortunate result is that we have only got about 50 copies that we can fairly offer to the members of the public including—if they can be properly included in the public—members of this august Legislative Council. We have got to reserve about 100 copies for the information and use of jail visitors whose number has recently been very largely increased and we have to distribute these 100 copies to the various superintendents of jails to keep those copies for the use of the visitors of their jails. We have got to reserve 100 because new copies are required as old ones get worn out or lost or as further officers require copies. So we have to keep about 100 copies in stock to supply the demand which is made from time to time by the various departments. The Council will readily recognise that it is not only the superintendents of jails who require copies but it is also such officers as sub-divisional and District Magistrates and Sessions Courts. That disposes of our existing stock, which only amounts at the present moment to 250 copies. We shall be very glad to put 50 copies out of these 250 up to auction and hope that we shall realize a handsome sum.

Mr. C. M. GANDHI : Sell at reasonable rates.

The Honourable Mr. M. H. W. HAYWARD : We should prefer that these interesting books should, in view of this very strong demand, be put up to auction, a view no doubt shared by the Finance Department. But apart from jesting there are these 50 copies available for anybody who wants them and we shall be glad to sell them at a reasonable figure of Rs. 4 or Rs. 5 a volume. The only question is whether we should offer them generally to the public or reserve them for the 90 non-official members of the Legislative Council.

This resolution has been aimed chiefly at the Jail Manual. But there would be no objection to treat similarly other departmental manuals. I have not got the figures about other manuals. It is very probable that the present stock of some would not be sufficient to justify large sales to the eager public. There are a number of manuals. If any honourable member wants to know what they are he will find them in the library of this Council. They have been placed there at my request by the various departments. If there is really any substantial demand for any of these manuals by the public this will be duly considered when we print the next editions. But it has to be remembered that if we print more copies of other manuals and if they are not really required by the public it means extra expense on the provincial revenues. With these necessary reservations I am authorised to say that the principle of this resolution will be accepted by Government.

Mr. KANJI DWARKADAS : Mr. President, after the very satisfactory reply of the Government which was fully expected from the Honourable the Home Member, I suppose there is nothing which ought to be said about this question. The position that the Honourable the Home Member has now taken

[Mr. Kanji Dwarkadas]

up is not certainly new, nor is it a fact that he has now been forced to take up this view owing to the resolution of the honourable mover. When in last March I wrote to the Superintendent of the Government Press to send me a copy of the Jail Manual, I got a reply from him saying that the Jail Manual can only be given to people if the Home Department would permit him to do so. On my writing to the Home Secretary he very kindly lent me a copy and I kept it for over two months. The House will thus see that the attitude which the Honourable the Home Member has taken is not at all a recent one forced by the honourable member from Surat, but merely one which has been followed since a long time.

Mr. C. M. GANDHI ( Surat City ): Sir, after the assurance that the Honourable the Home Member has given and the principle which he has accepted that all these manuals including the Jail Manual will be available to members of this House and the public, I will not press this resolution. But I must say, Sir....

The Honourable the PRESIDENT: Order, order. Does the honourable member wish to withdraw the resolution ?

Mr. C. M. GANDHI: No, Sir. The resolution has been accepted.

The Honourable the PRESIDENT: That does not debar the right to ask for leave to withdraw, if the honourable mover so desires.

Mr. C. M. GANDHI: In passing, Sir, I have to make one more remark that honourable members of this Council are not such favourites with the Government as the honourable member for Labour. Because it seems, Sir, that the other day in answering my question about Mr. M. K. Gandhi, it turned out that the Honourable member for Labour knew something more than many other honourable members of this House knew. Similarly in this case also it appears that the Home Secretary was kind enough to lend him a copy, but as regards other members of this House such a kindness was not shown to them; so that it is not right to say that this principle is accepted by Government, because if it had been accepted, I am quite sure no distinction would have been made between the honourable member for Labour and the honourable member for Thana district and myself. I am glad that the principle is vindicated and I hope that the administration henceforth will go on in the proper light and not as it was carried on before.

Question put and agreed to.

The Honourable the PRESIDENT: The Council is adjourned till 2 p.m. on Friday, the 6th October 1922.

*Friday, the 6th October 1922.*

The Council re-assembled at the Council Hall, Poona, on Friday, the 6th October 1922, at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present:*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BOLE, Mr. S. K.
CHITALE, Rao Bahadur G. K.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI.
FERNANDES, Major C.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODBOLE, Dewan Bahadur K. R.
GRIFFITH, Mr. F. C.
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
JADHAV, Mr. B. V.
JENNINGS, Major, W. E.
KALE, Rao Bahadur R. R.
KER, Mr. J. C.
LALBHAI AMBARAM, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LIGADE, Mr. S. P.
LOBY, Mr. F. B. P.
MACKIE, Mr. A. W. W.

Mead, Mr. P. J.
Mehta, The Hon'ble Mr. C. V.
Mohomed Salahuddin K., Mr.
Mountford, Mr. L. J.
Mutalik, Sardar V. N.
Nilkanth, Rao Bahadur R. M.
Nimbalkar, Mr. K. B.
Painter, Mr. H. L.
Paranjpye, The Hon'ble Dr. R. P.
Patel, Mr. B. P.
Pradhan, Mr. M. W.
Rahimtoola, The Hon'ble Sir Ibrahim
Salgar, Mr. R. G.
Setalvad, The Hon'ble Sir Chimnlal
Shirras, Mr. G. Findlay
Trivedi, Mr. G. B.
Vichare, Rao Bahadur D. A.

The Honourable the PRESIDENT: Order, order. Questions.

### Cutting of Mango Trees in Forests.

Mr. S. K. BOLE (Bombay City, North): Will the Government be pleased to state whether fruit-yielding mango trees in the forests are allowed to be cut?

The Honourable Mr. C. V. MEHTA: Information has been called for.

### Commutation of Sentence.

Rao Bahadur G. K. CHITALE (Ahmednagar District): (*a*) In view of the promise given by Government at a Legislative Council meeting of revising the sentences of transportation for life of the prisoners in Akola mamlatdar's murder case in the Ahmednagar district, will Government be pleased to state its intentions in the matter as about four years have now elapsed since they have been convicted?

(*b*) Will Government be pleased to state the respective jails in which the said prisoners are at present confined?

The Honourable Mr. M. H. W. HAYWARD: (*a*) I am not aware to what statement on the part of Government Rao Bahadur Chitale is alluding. The matter is, however, under consideration.

Rao Bahadur G. K. CHITALE: Which matter?

The Honourable Mr. M. H. W. HAYWARD: I have not yet finished answering the question. The answer to (*b*) is six at Yeravda and the rest transported to the Andamans.

The Honourable the PRESIDENT: I think that answer comes against my ruling, that no honourable member should be referred to by name.

The Honourable Mr. M. H. W. HAYWARD: I apologise, Sir. It was so printed by the Legislative Council office.

The Honourable the PRESIDENT : Yes, but the Legislative Council office prints what you send.

The Honourable Mr. M. H. W. HAYWARD : I think that this was sent in before your ruling.

PROVINCIAL EDUCATIONAL SCHEME.

Dr. K. E. DADACHANJI (Bombay City, South) : Will Government be pleased to state :—

(*a*) when the Secretary of State sanctioned the provincial educational scheme in November 1919, why did the Government of Bombay take twenty months to fix the intermediate grades ?

(*b*) what was the delay due to ?

(*c*) why have officers been made to suffer for this delay on the part of the Government ?

(*d*) why did the authorities concerned take eight months to make recommendations for the filling up of twenty-one selection grade posts ?

(*e*) has financial stringency been responsible for the keeping vacant of the selection grade posts in the provincial services of any other department ?

(*f*) if not, why is the provincial service of the Education Department singled out for this unequal treatment especially when, as suggested by the Government of India, it was to receive prior consideration ?

(*g*) did the Government in their resolution of June 1921 promise that selection grade posts will not be filled up, only if men of adequate capacity and experience were not available ?

(*h*) excepting the five officers awarded selection posts are there none in the remaining hundred officers satisfying the condition of adequate experience and capacity ?

(*i*) if not, why has not the Government fulfilled their promise held out to them ?

The Honourable Dr. R. P. PARANJPYE : (*a*), (*b*) and (*c*) The delay was due to the fact that the proposals submitted required careful scrutiny and consideration before they could be finally sanctioned. There were also other proposals for revision of pay and obviously they could not all be dealt with simultaneously.

(*d*) Because the claims of the officers of the various branches of the service had to be considered in consultation with the officials under whom they were serving.

(*e*) and (*f*) Inquiries are being made.

(*g*), (*h*) and (*i*) Government have reserved to themselves the right not to fill up a selection grade post if a suitable officer of adequate capacity and experience is not available. Attention in this connection is invited to the reply given to question no. 2 put by the honourable member at the last meeting of the Legislative Council. Government have nothing to add to that reply.

Dr. K. E. DADACHANJI : (The supplementary question asked by the honourable member was inaudible.)

The Honourable Dr. R. P. PARANJPYE : I think the answer is quite clear. I may explain that all officers by the recent revision have got an incsease of pay on the revision itself, and therefore it was not considered

desirable, owing to the financial stringency, to give them still higher pay by promoting the officers to the selection grade.

### Grazing Land.

Sardar Khan Bahadur A. M. DALAL (Broach District): (*a*) Will Government be pleased to place a statement on the table of grazing land assigned for each taluka in the Northern Division and the number of milch and plough cattle for the same less ?

(*b*) Are Government aware that the area of this grazing waste land in some districts and talukas where rainfall is scarce and which are periodically affected by scarcities, have insufficient grazing lands for the cattle causing distress and hardship to the ryots ?

The Honourable Mr. C. V. MEHTA : (*a*) A talukwar statement * for each of the districts in the Northern Division is placed on the table.

(*b*) Except in a few thickly populated talukas of the Kaira and Surat districts the area set apart for grazing is sufficient and no hardship is reported to be caused to the ryots.

### Gambling on Bombay Stock Exchange.

Sardar Khan Bahadur A. M. DALAL (Broach District): Has the attention of Government been drawn to the wild and wholesale gambling which is now going on on the Bombay Stock Exchange and which portends great monetary disaster in the near future, and do Government contemplate taking any steps to check it, and, if so, in what direction and when ?

The Honourable Mr. H. S. LAWRENCE : No representations have been made to Government on the subject.

### Deputy Directors of Excise and Salt.

Rao Saheb HARILAL D. DESAI on behalf of Mr. C. M. GANDHI (Surat City): (*a*) When were the posts of the three Deputy Directors of Excise and Salt created ?

(*b*) Who did the present work of these three offices before they were created?

(*c*) What is the total cost of these three offices ?

(*d*) Are there any insuperable difficulties in doing away with these offices ?

(*e*) If so, what ? Please specify the same.

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) The appointments of Deputy Commissioner of Salt and Excise were created with effect from 17th September 1917.

(*b*) Collector of districts (as regards excise matters) and the Collector of Salt Revenue (as regards salt).

(*c*) The total cost of the three offices is Rs. 1,19,014 per annum.

(*d*) and (*e*) The question of the advisability of reducing or abolishing the Deputy Commissioners' posts is under consideration of Government.

### Draft Rules regarding Political Prisoners.

Rao Saheb HARILAL D. DESAI on behalf of Mr. C. M. GANDHI (Surat City): Will Government be pleased to lay on the table of the House the

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* *Vide* Appendix X.

draft rules regarding the treatment of 'political prisoners' and give the Legislative Council an opportunity of considering and expressing their opinion thereon before they are finnaly promulgated by Government ?

The Honourable Mr. M. H. W. HAYWARD : Government have under preparation rules for the institution of a separate division, as explained in the reply to Mr. Trivedi. The rules will be published shortly and it will be open to any member to draw attention to any point requiring in his opinion notice in accordance with the Rules and Standing Orders of the Council.

### Category of Mahars.

Mr. D. D. GHOLAP : Will Government be pleased to state whether the mahars (village servants) come within category of Government servants ?

The Honourable Sir IBRAHIM RAHIMTOOLA : As mahars are not full-time and salaried servants of Government, they do not come within the category of Government servants.

### Criminal Tribes Manual.

Mr. B. V. JADHAV : (*a*) Will Government be pleased to place in the Council Library a copy of the Criminal Tribes Manual for Kaira district ?

(*b*) Will Government be pleased to say whether a similar manual has been compiled for the Satara district ?

(*c*) If available, will Government be pleased to add a copy of it to the Council Library ?

The Honourable Mr. M. H. W. HAYWARD : (*a*) The District Magistrate, Kaira, has been asked to supply a copy of the Criminal Tribes Manual for Kaira district for the Legislative Council Library.

(*b*) and (*c*) The answer is in the negative.

Mr. B. V. JADHAV : Will Government be pleased to say whether they will prepare a Manual for Satara district ?

The Honourable the PRESIDENT : That is suggesting a particular action, and is out of order.

Mr. B. V. JADHAV : When will Government prepare a Manual for Satara ?

The Honourable the PRESIDENT : That is an assumption.

Rao Saheb D. P. DESAI : Are there any Criminal Tribes Manuals for any other districts than Kaira ?

The Honourable the PRESIDENT : The proper way of asking the question is, "Has Government any intention of preparing a Manual for Satara ?".

Mr. B. V. JADHAV : Do Government intend to prepare a Manual for Satara ?

The Honourable Mr. M. H. W. HAYWARD : They have so far formed no such intention.

The Honourable the PRESIDENT : The Standing Order says that honourable members cannot ask Government anything suggesting a particular action, but they can ask the intentions of Government.

ADMISSION TO TERRITORIAL FORCES.

Rao Bahadur R. R. KALE (Satara District): (*a*) Will the Government be pleased to state if the local Government have made any rules or issued any circulars relating to admission to the territorial forces attached to the Bombay 103rd Mahratta Light Infantry of particular castes or communities in contravention of the provisions of the Indian Territorial Forces Act No. 48 of 1920 and the rules made thereunder by the Government of India which lay down no such restrictions ?

(*b*) If they have, will they be pleased to state the provisions under which they framed the rules ?

The Honourable Mr. M. H. W. HAYWARD: (*a*) and (*b*) The answer is in the negative.

POPULATION OF MULSHI PETHA.

Rao Bahadur R. R. KALE (Satara District): Will the Government be pleased to lay on the Council table the total number of persons living in Mulshi petha whose lands are to be submerged in the Tata scheme ?

The Honourable Sir IBRAHIM RAHIMTOOLA: The number of kabjedars whose lands will be submerged is 2,259 and the total village population that will thus be affected is approximately 5,147.

SUSPENSION OF LAND REVENUE.

Rao Bahadur R. R. KALE (Satara District): In how many villages of the Satara district was the land revenue suspended during the years 1921 and 1922 ? Will Government be pleased to name such villages ?

The Honourable Sir IBRAHIM RAHIMTOOLA: Information has been called for.

EXPENDITURE ON COLLECTION OF GRASS DURING LAST FAMINE.

Rao Bahadur R. R. KALE (Satara District): What amount has been spent by Government in collecting grass in Karad taluka of the Satara district for sale during the last famine ? How much of the grass was sold and how much of it remained unsold ? Is the Government aware that the grass not sold there has caused much loss to Government in the whole affair ?

The Honourable Sir IBRAHIM RAHIMTOOLA: Rs. 12,611 were spent in collecting 11,21,000 lbs. of grass. Out of this 4,90,500 lbs. grass was sold for Rs. 5,956. The net loss to Government cannot however be estimated till the remaining grass at Karad as well as that at Satara has been sold.

Rao Bahadur R. R. KALE: Is the grass still remaining unsold ?

The Honourable Sir IBRAHIM RAHIMTOOLA: Yes.

CHANGE OF NAMES OF TALUKAS.

Rao Bahadur R. R. KALE (Satara District): (*a*) Will the Government be pleased to state how many talukas have their headquarters with different names ?

(*b*) What action have Government taken to change the name of these talukas and name them after the name of their headquarters ?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) Information will be called for.

(*b*) Government have taken no action in this respect.

GOVERNMENT CONTROL OF MAHOMEDAN RELIGIOUS INSTITUTIONS.

Rao Bahadur R. M. NILKANTH on behalf of Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to state why Mahomedan religious institutions of Ahmedabad such as Jumma Masjid, Rani Sipri's Mosque are kept under Government control?

The Honourable Mr. H. S. LAWRENCE: The question of the Jumma Masjid is at present under the consideration of Government. The necessary information is being called for as regards the Rani Sipri's mosque.

ADMISSION TO HOSPITALS.

Rao Bahadur R. M. NILKANTH on behalf of Khan Saheb A. M. MANSURI (Ahmedabad and Surat Cities): Will Government be pleased to place on the table the Government Resolution No. 783 of 1922 relating to admission, etc., to hospitals? Was the said resolution also meant for the J. J. Hospital? If not, why was it sent to the J. J. Hospital and who was responsible for the same?

The Honourable Dr. R. P. PARANJPYE: The resolution has been published. Attention is invited to the reply given to a similar question put by the honourable member for Thana District, Mr. G. B. Trivedi.

COST OF SPIRIT PRODUCED BY NASIK ACETONE FACTORY.

Sardar Khan Bahadur A. M. DALAL on behalf of Sardar Davar T. K. MODI (Surat District): (*a*) Is it a fact that the manufacturing cost of spirit produced at the Acetone Factory at Nasik lately acquired by Government and converted into a Central Distillery is now more than 2/8 per gallon?

(*b*) Is it not a fact that Government are supplying the spirit manufactured at the Nasik Central Distillery at a much lower price than the actual cost thereof?

(*c*) Is it not a fact that Government are buying spirit from distilling contractors at a price much lower than the price at which the retail vendors are supplied by them?

(*d*) Is it not a fact that the profit thus made is intended to cover the loss made at the Nasik Central Distillery?

(*e*) What steps do Government intend to take to work the Nasik Distillery in view of the fact that Government is losing heavily on the cost of manufacture?

The Honourable Mr. C. V. MEHTA: (*a*) No.

(*b*) No.

(*c*) Yes. Government are not bound to supply spirit to retailers at the same price at which they purchase it from distilling contractors.

(*d*) and (*e*) Do not arise.

Rao Bahadur G. K. CHITALE: May I know what the cost price is?

The Honourable Mr. C. V. MEHTA: About Re. 1-6-0.

DISPOSAL OF ASSISTANCE SUITS.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): In view of the enormous number of assistance suits, pending in revenue courts, and the large number of decrees pending, as stated by Government in reply to a

question put by Rao Saheb D. P. Desai at the last session, will Government be pleased to state what steps have been taken for the disposal of the assistance suits and the execution of the decrees ?

The Honourable Sir IBRAHIM RAHIMTOOLA : No special steps have been taken ; but the officers concerned are being asked to submit proposals in the matter.

COMPLAINT AGAINST VILLAGE OFFICERS.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars) : (*a*) Are Government aware that there are constant and standing complaints, and that there is a great deal of dissatisfaction amongst the inamdars of alienated villages, about the negligent and careless work of the village officers in their villages, with respect to revenue collections, keeping of accounts, submitting them at the close of the year, and showing them to the inamdars for inspection and audit, and also about the overbearing conduct of the village officers ?

(*b*) If so, will Government be pleased to state what steps have been taken to redress the grievances of inamdars ?

The Honourable Sir IBRAHIM RAHIMTOOLA : No. Government are however inquiring into the matter.

POSTS GIVEN TO MEN FROM PROVINCIAL CIVIL SERVICE.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars) : (*a*) Will Government be pleased to state the number of posts in the executive line of the Indian Civil Service given to men from the Provincial Service, during the last five years, to increase the Indian element in the branch ?

(*b*) When do Government intend to give next promotions from Provincial to Indian Civil Service in the executive branch ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) No such posts have been given beyond those already open to members of the Provincial Civil Service.

(*b*) The question of throwing open more such posts to members of the Provincial Civil Service is at present under the consideration of Government.

Sardar V. N. MUTALIK : May I know what the decision of Government will be ?

The Honourable Sir IBRAHIM RAHIMTOOLA : In due course.

HIGHER POSTS FOR MEN FROM ARISTOCRATIC CLASSES.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars) : Will Government be pleased to state whether any posts in the higher grades of services (of the grade of mamlatdars and above) are given to persons from the sardar and inamdar classes, and if so, how many of such persons are now in service, in the various departments ?

The Honourable Sir IBRAHIM RAHIMTOOLA : These appointments are made on considerations of educational qualifications and the interests of public service. Persons from the inamdar and sardar classes are eligible for them but no posts are specially reserved for such persons.

Information will be called for to answer the second part of the question.

### Giras Allowance of Talukdars in Kaira.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): With reference to the answers given by Government on 26th February 1922 to my questions (*b*), (*c*) and (*d*) on Giras allowance of talukdars in Kaira (*vide* Bombay Legislative Council debates, Volume V, Part I, page 49), will Government be pleased to state—

(*a*) whether the Collector of Kaira sent memorandum No. W.T.N.—333, dated 17th December 1920, to the Thakore of Dehvan calling upon him to sign an agreement about Giras allowance of which copy was sent with the memorandum and informing him that if he refuses to sign the agreement, his case will be submitted to Government for forfeiture of the agreement ?

(*b*) does this agreement make any alteration in the sanad previously given to the ancestors of the Thakore Saheb guaranteeing them payment of the allowances ; if so, in what respects ?

(*c*) if the agreement makes no alteration in the sanad, why is its execution required ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Enquiries are being made.

### Giras Allowance to the Thakore of Dehvan.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Will Government be pleased to state—

(*a*) whether the Thakore of Dehvan was called upon by the Collector and District Magistrate of Kaira to employ six armed men to work as police guard for the village of Ras ?

(*b*) whether Ras does not belong to Thakore of Dehvan but is a Khalsa village ?

(*c*) why is the Thakore of Dehvan considered to be bound to take measures for the protection of the village of Ras ?

(*d*) whether on the failure of the Thakore to carry out the requisition payment of his Giras allowance has been stopped ?

(*e*) whether the estate of the Thakore is under the management of the Collector ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Enquiries are being made.

### Survey Settlement in Ahmedabad District.

Rao Bahadur R. M. NILKANTH (Ahmedabad District) : Will Government be pleased to state—

(*a*) whether they have ordered that new survey settlement in the Ahmedabad District should be fixed for a term of 15 years ?

(*b*) what has led Government to curtail the period of settlement from 30 years to 15 years ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) Yes.

(*b*) The pending construction of the Dholka-Dhandhuka Railway will so materially improve the condition of the taluka that another revision settlement may be necessary after 15 years.

Rao Bahadur R. M. NILKANTH : Is the construction of the railway supposed to justify the revision of the whole district or of the particular taluka only ?

The Honourable Sir IBRAHIM RAHIMTOOLA: The district will be affected by the improved means of communication which will become available, and that will be taken into consideration at the time of making the settlement.

SUB-REGISTRARS IN SIND.

Mr. LALBHAI AMBARAM on behalf of Mr. DIPCHAND T. OJHA (Karachi City): Will Government be pleased to state if it is a fact that sub-registrars in Sind are not on the same grade of salary as some sub-registrars in the Presidency? If so, what is the reason?

The Honourable Mr. C. V. MEHTA: The answer is in the affirmative if the question means that there is no grade of Rs. 220-10-300 in Sind as in the Presidency. The grades have been fixed on a comparison of the importance and income of offices in the various divisions. The work in Sind is lighter than that in any division in the Presidency.

HIGHER APPOINTMENTS IN REGISTRATION DEPARTMENTS.

Mr. LALBHAI AMBARAM on behalf of Mr. DIPCHAND T. OJHA (Karachi City): Will Government be pleased to state why the number of higher appointments in Sind in the Registration Department is much less than that in the Bombay Presidency?

The Honourable Mr. C. V. MEHTA: The reasons are that (I) in Sind there is a relatively larger number of offices in which the work is small or trivial, (II) owing to the lower standard of recruits in Sind there is a larger relative number of sub-registrars who are unfit for the higher grades.

The Honourable the PRESIDENT: May I ask whether the honourable member, Mr. Lalbhai Ambaram, had any authority from the honourable member Mr. Dipchand Ojha for asking his questions on his behalf?

Mr. LALBHAI AMBARAM: No, Sir, I did not know I ought to have received such authority.

The Honourable the PRESIDENT: Yours may have been a private arrangement with the honourable member who is now absent, but Mr. Lalbhai ought to have written to the Secretary to the Legislative Council to obtain permission of the President.

Mr. LALBHAI AMBARAM: I did not know it was necessary.

The Honourable the PRESIDENT: By this time all honourable members are expected to know the Standing Orders and my ruling.

Mr. LALBHAI AMBARAM: Excuse me, Sir. I will do it hereafter.

The Honourable the PRESIDENT: I took it that the proper procedure had been adopted, but it has now been brought to my notice that there has been no conformity with rules. Any way, I allow it this time.

USE OF GHEE IN SIND JAILS.

Mr. B. P. PATEL (Ahmedabad District): (*a*) Is it a fact that ghee is used in preparation of vegetables in Sind jails to suit the habits of Sindhis?

(*b*) Will Government be pleased to state if Sindhi prisoners in other parts of the Presidency are given the same concession?

The Honourable Mr. M. H. W. HAYWARD: The information is being obtained.

### Ryots' Trouble regarding their Monthly Programme.

Mr. B. P. PATEL (Ahmedabad District): Is the Government aware that—

(*a*) the ryots are put to a great deal of trouble by the district and taluka revenue officers for not framing their monthly programmes of their movements and publishing them in one of the vernacular newspapers in the beginning of the month.

(*b*) Is the Government aware that such programmes were some time back published in Surat district and now discontinued; if so, why?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) No complaints have been received by Government in the matter.

(*b*) Inquiry will be made.

### Posts of Assistant Collector.

Mr. B. P. PATEL (Ahmedabad District): Will Government be pleased to state what led to the creation of the post of the assistant Collectors of Excise and Abkari now turned into Superintendents; when before the existence of these officers their duties were performed by the revenue sub-divisional officers?

The Honourable Mr. C. V. MEHTA: Before the year 1907 the Collectors of districts, with their ordinary land revenue assistants and deputies, were supposed to supervise the work of excise inspectors, and to give to the Excise Commissioner the local assistance which he needed; but burdened as these officers generally were with the multifarious duties of revenue administration they were unable to devote to this branch of the work that close attention which alone could secure real efficiency, and it frequently happened that abkari work was postponed to other more exacting duties, and put aside to be taken at leisure. Many of the assistant and deputy collectors in charge of divisions were ignorant of the real principles of excise administration, and the district officers were without exception in favour of remedying this condition of things by the appointment of excise assistant collectors as recommended by the Indian Excise Committee of 1905-06. The excise staff also needed just as much expert supervision by whole-time departmental officers of superior rank as any other specialized department. The substitution of the contract supply and separate-shop system for the old district monopoly system which was then being carried out also rendered it necessary that Collectors should have responsible professional advisers.

### Fatal Accidents in Shunting Yards.

Dr. S. S. BATLIWALA on behalf of Mr. A. N. SURVE (Bombay City, North): (*a*) Are Government aware that fatal accidents occur at Bombay in the shunting yards of the Bombay, Baroda and Central India Railway and Great Indian Peninsula Railway on account of laxity of supervision while shunting the wagons?

(*b*) Will Government place on the table the number of such accidents and the circumstances under which they occurred during the past five years?

The Honourable Sir IBRAHIM RAHIMTOOLA: Information is being obtained.

### Death of a Malegaon Prisoner.

Dr. S. S. BATLIWALA on behalf of Mr. A. N. SURVE (Bombay City, North): (*a*) Will Government state the cause of the death of Khalifa—a Malegaon prisoner who had preferred an appeal to the High Court—in the Visapur Jail ?

(*b*) Was he physically robust and free from disease that would cause premature death ?

The Honourable Mr. M. H. W. HAYWARD : (*a*) Abdulla Khalifa Khudabux died of Pneumonia.

(*b*) His health was " good " on admission to jail.

### Removal of the Sacred Thread in Visapur Jail.

Dr. S. S. BATLIWALA on behalf of Mr. A. N. SURVE (Bombay City, North): (*a*) Was the sacred thread removed in the case of Govindji Vasanji, Bhojraj and Wheromal who were imprisoned in the Visapur Jail ?

(*b*) If it was, what led Government to take this extreme step—the Jail Committee having recommended in their report not to remove the sacred thread from the person of the prisoners ?

The Honourable Mr. M. H. W. HAYWARD : (*a*) and (*b*) No, Sir.

### Abolition of District Deputy Collectorships.

Mr. G. B. TRIVEDI (Thana District): How many places of District Deputy Collectors have been abolished in the Central, Northern and Southern Divisions on account of retrenchment ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Prant officers have been reduced as shown below :—

| | | | | |
|---|---|---|---|---|
| Northern Division | .. | .. | .. | 0 |
| Central Division | .. | .. | .. | 4 |
| Southern Division | .. | .. | .. | 1 |

The reduction mentioned above does not effect any reduction in the existing cadre of Deputy Collectors.

### Deputy Collectors as Personal Assistants.

Mr. G. B. TRIVEDI (Thana District): (*a*) Have deputy collectors in the past five years worked as personal assistants to the Collectors of Poona and Satara ?

(*b*) If so, what are the special reasons for now having personal assistants of the Indian Civil Service cadre ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) Yes.

(*b*) The appointments are filled up in accordance with the interests of the administration.

### Political Prisoners.

Mr. G. B. TRIVEDI (Thana District) : In view of the resolution about the treatment of political prisoners passed by this Council at the last session, will Government be pleased to state :—

(*a*) What steps they have taken to afford more facilities in the matter of interviews, supplies of newspapers and books, writing of letters,

providing of lights at nights, mixing with other prisoners undergoing simple imprisonment, to Messrs. M. K. Gandhi and S. G. Banker at the Yeravda Jail, Poona ?

(*b*) Whether the sentences of rigorous imprisonment passed on the editor, printer and publisher of *Young India* and the keeper of the press have been reduced to one of simple imprisonment ?

(*c*) What changes have been made in the case of other political prisoners now in jail ?

The Honourable Mr. M. H. W. HAYWARD : (*a*) and (*c*) Government have under preparation rules for the institution of a separate division for simple imprisonment prisoners to which persons sentenced for offences connected with political movements will be eligible with other prisoners. No special rules or orders are contemplated relating to individual prisoners.

(*b*) Reference is invited to the answer given to the question at the last session of the Legislative Council, on the same subject.

Rao Bahadur G. K. CHITALE (Ahmednagar District) : Are no special rules contemplated with regard to prisoners sentenced to rigorous imprisonment ?

The Honourable Mr. M. H. W. HAYWARD : No, Sir.

LEASE OF THE BUILDINGS OCCUPIED BY THE OFFICE OF THE COMMISSIONER, CENTRAL DIVISION.

Mr. G. B. TRIVEDI (Thana District): Will Government be pleased to state—

(*a*) for how many years the compound and buildings in which the office of the Commissioner, Central Division, Poona, is situated, are leased ?

(*b*) What other Government offices are located therein ?

(*c*) What is the total rent of the place and what is the apportionment of each of the offices located there ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : (*a*) The compound and buildings, *i.e.*, bungalows Nos. 4 to 6, Byramjee Jeejeebhoy Road, Poona, have been leased for five years from 1st November 1921.

(*b*) The following offices and officers are at present accommodated therein :—

| | Rent per month. |
|---|---|
| | Rs. |
| (1) Office of the Commissioner, Central Division .. | 773 |
| (2) Office of the Sub-Divisional Officer, Sind Sanitary Sub-Division .. | 273 |
| (3) Do. do. Poona Sanitary Sub-Division .. | 174 |
| (4) Office of the Executive Engineer, Poona Drainage Construction .. .. .. | 376 |
| (5) Office (part only) of the Registrar, Co-operative Societies, Bombay Presidency, and his Assistant Registrar .. .. .. | 129 |
| (6) Office of the Executive Engineer, Government House District .. .. .. | 254 |
| (7) Do. do. Special Irrigation District .. | 45 |

| | Rent per month. Rs. |
|---|---|
| (8) Dr. Miss T. H. Pesikaka, Assistant Surgeon, Sassoon Hospitals, Poona .. .. .. | 166 |
| (9) Office of the Secretary, Retrenchment Committee .. | 77 |
| (10) Office of the Provincial Secretary to the Bombay Boy Scouts Council .. .. .. | 39 |
| (11) Office of the Inspector of Science Teaching, Bombay Presidency .. .. .. | 77 |
| (12) Office of Colonel G. E. Stewart, I.M.S., on special duty .. .. .. | 39 |
| (13) Office of the River gauge Sub-Divisional officer .. | 78 |
| Total .. | 2,500 |

(*c*) The total rent of the bungalows is Rs. 2,500 per mensem; and the apportionment of each of the offices located therein is as shown in (*b*) above.

Mr. G. B. TRIVEDI: With reference to the item of Rs. 773 for the rent of the Commissioner, C. D.'s office, may I know where this office was located formerly, was it in a government buildng or in a hired building?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I want notice of the question.

### Housing of Civil Courts of Poona.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will Government be pleased to state if the present arrangement of housing the civil courts of Poona in the Vishrambag palace is a permanent one?

(*b*) If not, will they mention the alternative arrangement they have in view?

(*c*) In that case, how are they going to utilise the Vishrambag palace?

The Honourable Mr. M. H. W. HAYWARD: (*a*) and (*b*) It is temporary pending the construction of the new civil courts.

(*c*) The question will be decided as soon as it is possible to transfer the civil courts.

### Draft Bill for Land Revenue Administration.

Mr. G. B. TRIVEDI (Thana District): Will the Government be pleased to state what steps they have taken to frame a draft bill embodying the principles on which their land revenue administration is based, in accordance with the recommendations of the joint select Parliamentary Committee on the Government of India Bill, 1919?

The Honourable Sir IBRAHIM RAHIMTOOLA: The matter is still under the consideration of Government.

Mr. G. B. TRIVEDI: Was not a similar question put last year on the same question?

The Honourable the PRESIDENT: Order, order. If the question was put, that is information available to the honourable member, as to all other honourable members of the House, and a simple reference to the official reports of the Legislative Council will make the point quite clear. Therefore the question is out of order.

### Polo Grounds of Mahableshwar.

Mr. G. B. TRIVEDI (Thana District): (*a*) Does the polo ground of Mahableshwar belong to Government ?

(*b*) Is it not a fact that the Assistant Engineer, Public Works Department, of the Panchgani Sub-Division drew travelling allowance last year for supervising the work of the polo ground ?

(*c*) If so, under what circumstances was it drawn and what was the amount and under what rule of Public Works Department Code was it drawn ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : (*a*) No.

(*b*) and (*c*) Enquiries are being made from local officers in the matter.

### Levy of Non-Agricultural Assessment.

Mr. G. B. TRIVEDI (Thana District): What is the Government's justification for levying non-agricultural assessment on their own lands used for stacking and pressing their own grass by the land-owners ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Information will be called for.

### Increased Rates on Parcels.

Mr. G. B. TRIVEDI (Thana District): (*a*) Are the Government aware that the B. B. &. C. I. Railway and G. I. P. Railway have lately doubled their rates on parcels of fruits and vegetables and quadrupled those on grafts ?

(*b*) Are Government aware that this is likely to retard more lands from being brought under cultivation in several districts in Northern and Central Divisions ?

(*c*) Have they made any representation to these railway companies in this matter ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Information is being obtained.

### Nominal Price for Teakwood Trees.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will the Government be pleased to state how many select teakwood trees were sold at nominal price of Rs. 5 per tree to Mr. K. M. Shroff of Mahim taluka in the years 1920 and 1921 ?

(*b*) What was the reason of selling them at such a low price instead of auctioning them ?

(*c*) What is the Government's probable loss in the matter ?

(*d*) What steps have Government taken against the officers concerned ?

(*e*) What steps have Government taken to privent any such recurrence ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) 500 trees were sold at Rs. 5 per tree and 1,500 trees at Rs. 8-5-0 per tree to Mr. K. M. Shroff.

(*b*) The reason of the concession was that the Collector wanted to recognise Mr. Shroff's loyal act in relinquishing land freely for the Famine Fodder Depôt at Palghar.

(*c*) The loss to Government is estimated at Rs. 8,750.

(*d*) and (*e*) The action of the local officers has met with the disapproval of Government who have issued a circular enjoining strict observance of the rules in future.

JAIL EXPERIENCES BY MR. KARANDIKAR.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will the Government be pleased to state if their alteration has been drawn to the narrative of his jail experiences recently published by Mr. J. S. Karandikar, assistant editor of the *Kesari*?

(*b*) If so, will they kindly state what action they have taken to verify his statement?

(*c*) If any of his allegations have been found on inquiry to be false, were any steps taken to contradict them?

(*d*) Have Government taken any steps to carry out improvements suggested by Mr. Karandikar?

The Honourable Mr. M. H. W. HAYWARD: (*a*) and (*b*) Government are always ready to enquire into *bona fide* complaints of a definite nature and the first article of the assistant editor of the *Kesari* was sent for remarks to the Superintendent of the Yeravda Prison.

(*c*) and (*d*) Government cannot undertake categorically to deny all the numerous allegations of an indefinite nature and characterised so often by deliberate distortions and gross exaggerations and misstatements, which have been published from time to time in pamphlets or in the public press. The chief complaints of the assistant editor of the *Kesari* would seem to be insufficient clothing, indecent inspections, inadquate diet, scanty supply of water, neglect in hospital and exceptional rigour towards prisoners sentenced for seditious offences. These complaints are without foundation and the statements in support of them absolutely untrue. It is sufficient to indicate here that an ample scale of clothing is laid down in the Jail Manual, that 75 per cent. of the prisoners increase in weight, that there is a supply of over 18 lacs of gallons of water a month and that the hospital is visited daily by the Superintendent who is an experienced officer in the Indian Medical Service.

Mr. G. B. TRIVEDI: Have Government satisfied themselves about the justification or otherwise of the complaint about indecent inspections? In the reply there is nothing said about that.

The Honourable the PRESIDENT: The answer given is clear. Government have replied that they undertake to deny categorically all the allegations of an indefinite nature and the deliberate distortions, gross exaggerations and misstatements.

Mr. G. B. TRIVEDI: Many things are said about the other complaints but nothing about indecent inspections.

The Honourable the PRESIDENT: The reply of Government is given in these words "These complaints are without foundation and the statements in support of them absolutely untrue." That applies to the complaint about indecent inspections.

Mr. G. B. TRIVEDI: I say when detailed information is given as regards clothing, water, diet, etc., nothing is said about indecent inspections.

The Honourable the PRESIDENT: I cannot allow a supplementary question of the kind asked, when the answer applies to the complaint as to indecent inspections. Strictly speaking the original question having been based on a published pamphlet should not have been allowed unless the honourable member took upon himself some responsibility for the accuracy of the statements contained in the pamphlet. The original question obviously on the face

of it shows that the honourable member shirked that responsibility required by the Standing Orders, but I allowed the question on the ground that Government ought to have an opportunity of answer in a case of this kind. The supplementary question now asked is out of order.

Mr. G. B. TRIVEDI: My object was that if any of these allegations are false, the Government should contradict them. I wanted to help Government.

The Honourable the PRESIDENT: I have not the slightest doubt that the honourable member wants to help Government. That was the main reason why I allowed the question, but this should not be taken as a precedent and carried too far.

Mr. G. B. TRIVEDI: I thought this was important.....

The Honourable the PRESIDENT: I allowed the original question, but I cannot allow this question which is not what a supplementary question should be. A supplementary question is intended to clear up what is obscure in the answer given to the original qustion.

APPLICATION OF RESOLUTION No. 783-TO J. J. HOSPITAL.

12. Mr. G. B. TRIVEDI (Thana District): (*a*) Will Government be pleased to state whether it was their intention to apply their resolution No. 783 of 29th June 1922 to the J. J. Hospital, Bombay?

(*b*) If not, who is responsible for sending it to that hospital?

The Honourable Dr. R. P. PARANJPYE: The Government resolution referred to was intended to apply to all hospitals to which it could apply. As soon as the fact that it could not apply to the scheduled hospitals in Bombay was brought to the notice of Government it was withdrawn so far as they were concerned.

Mr. G. B. TRIVEDI: Who drew the attention of the Government to the fact that it could not apply to J. J. Hosptal? Was it the Bombay municipality?

The Honourable Dr. R. P. PARANJPYE: It was not the Bombay municipal corporation.

CORRESPONDENCE BETWEEN GOVERNMENT AND SENIOR MEDICAL OFFICER.

13. Mr. G. B. TRIVEDI (Thana District): Will Government be pleased to lay on the Council table the correspondence that passed between them and the Senior Medical Officer of J. J. Hospital, after the receipt by the latter of their resolution No. 783 of the 29th June 1922 up to the 12th August 1922?

The Honourable Dr. R. P. PARANJPYE: A press note stating the facts fully has been laid on the table. Government do not consider that any useful purpose would be served by publishing the correspondence.

The Honourable the PRESIDENT: Does the honourable member wish to ask any further supplementary question?

Mr. G. B. TRIVEDI: Sir, my submission is that the question has not been answered.

The Honourable the PRESIDENT: It has been answered. The honourable member is making a complaint. This is not complaint time, but this is question time.

Mr. G. B. TRIVEDI: If my question has not been answered, can I not point it out?

The Honourable the PRESIDENT: The honourable member complains that his question has not been answered as he wants. The Honourable Minister has answered in his own way. I cannot interfere. The honourable member cannot raise a debate on the answer given by complaining that the answer is not satisfactory. This is not debate time but this is question time. I have often ruled that. Whether the answer is satisfactory or not is a question allowable on the proper occasion for debate and not at question time.

Mr. G. B. TRIVEDI: What is the other correspondence referred to at page 2 of the press note?

The Honourable Dr. R. P. PARANJPYE: I want notice of that question.

The Honourable the PRESIDENT: May I point out that it is not a supplementary question which arises out of the original question and answer? The original question asked that the press note should be placed on the table. The answer is: it has been laid on the table. The supplementary question relates to matters in the papers laid on the table. That is a substantive question of which notice must be given. It is not supplementary.

Mr. G. B. TRIVEDI: Last time you ruled, Sir, that if a press note is referred to in the answer, I can make reference to the press note.

The Honourable the PRESIDENT: But here it is not a reference to that press note, but to a particular matter in it. The original question was with regard to laying on the table some papers. The reply is that the press note has been laid on the table.

Mr. G. B. TRIVEDI: In the press note it is stated that certain correspondence passed. I want this correspondence.

The Honourable Dr. R. P. PARANJPYE: I want notice of that question.

### Number of Safes purchased in the Home Department.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will Government be pleased to state how many safes were bought by them during the last five years in the Home Department?

(*b*) How many of these were of foreign make?

(*c*) And how many of Indian manufacture?

(*d*) And how many of the latter were bought from Messrs. Godrej and Boyce?

The Honourable Mr. M. H. W. HAYWARD: Information is being collected.

### Disposal of Teak and Sandal Trees.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to lay on the table the copy of agreement between Government and landlords of the Thana district authorising Government to get the disposal of the teak and sandal trees standing on their private malki varkas land through Government?

The Honourable Sir IBRAHIM RAHIMTOOLA: There is no such agreement. The right to the trees vests in Government by law. Mr. Vichare is referred to pages 504 to 506 of Volume II of the Bombay Forest Manual in

which the legal position regarding the right of Government to teak trees in occupied varkas lands in the Thana district is defined.

### School for Weaving.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to say whether any school for weaving or demonstration has been started in the Ratnagiri district? If not, is there any intention of Government starting one, or attaching a teacher to the industrial school at Ratnagiri with a view to train students in these lines?

The Honourable Dr. R. P. PARANJPYE: No. It is not intended to start a weaving school in Ratnagiri, or attach a teacher of weaving to the school of Industry there as Ratnagiri is not a suitable centre for weaving.

### Information regarding Manufacture of Slate, etc.

3. Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to say whether the Industrial Department has collected any information regarding manufacturing of earth points, slate and pencils, buttons from cocoanut shells, ropes from coirs, flooring tiles from clay, etc., from the Ratnagiri District?

The Honourable Dr. R. P. PARANJPYE: Yes, a statement* from the Director of Industries is placed on the Council table.

### Strength of Primary Schools.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to lay on table the total number of boys in each class of the primary schools, the average amount of fee charged, the number of freeships allowed to Brahmin, non-Brahmin as well as military soldiers' boys?

The Honourable Dr. R. P. PARANJPYE: The information asked for cannot be collected without an amount of labour out of all proportion to its utility. Primary education is already practically free for those who are too poor to pay fees.

## DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST.

Mr. M. A. HAVELIVALA (Bombay City): I beg to move, Sir, the following resolution:

"That this Council recommends to Government that a committee should be appointed to inquire into the present status of the share bazaar of Bombay and into the alleged huge gambling transactions recently reported and to recommend to Government what action, if any, is necessary that the stock exchange may be put upon such a basis as will effectually stop all further so called "corners" resulting as they do in effectually curtailing the flow of investors' capital into the industries of Bombay and tarnishing the fair fame of this great city."

In commending this resolution for the acceptance of the Council, I wish to point out some of the baneful features of our stock exchange of Bombay, and to press for the appointment of a committee to enquire into and make recommendations on the working of the stock exchange. Formerly the share bazaar used to meet somewhere near the present premises of the Mercantile Bank of India. That was in the year 1863 or 1864. Business in this place was done in stocks, shares and Government securities. At this time there were no rules, and no organised institution. Anybody acted as broker and did business in securities which I have mentioned. There were no rules of discipline and no

* *Vide* Appendix Y.

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control on this stock exchange, either from within or from without. In this place, old residents of the city tell us that thousands flocked together every day and did business to the tune of crores of rupees both in cash and in contracts. Merchants in Bombay having made large fortunes at that time during the American Civil War, were exceptionally active with large sums of money and speculated very heavily on this stock exchange. At this time all sorts of joint stock companies were formed, and there were adventurers in floating companies, mostly banks, financial institutions, and reclamation schemes. There were also other projects for steamer companies, cotton plantations, cotton spinning, etc. All classes of people, from the poor to the rich and from the labourer to the professional men, huddled together at this spot to get rich quickly. Financial associations and banks that were founded at this time in those days soon came forward to lend money very freely on the security of those shares, with the result that, when the news of the signing of peace from America came, the result on the exchange was simply terrific and disastrous. Bombay merchants made large fortunes, and curiously enough, the last war of 1914—1919 presents a parallel as in the time of the American Civil War. Bombay merchants made large fortunes just about the time in 1914—1919 undoubtedly and went in for wild speculation in all the commodities, including the landed properties in the city of Bombay, and the share bazaar soon became a centre of attraction for all. Tradesmen, professional men, and even the clerks and the peons in the offices, distracted their attention from their legitimate avocations of life and played out their money on the stock exchange with a view to get rich quickly. In the result, scores of companies were floated and people were allowed to go in for those shares at high premium by the adventurers or the so-called promoters of the joint-stock companies. The events of the last two years show as to how many companies have come to grief and it is a common knowledge that hundreds of people are ruined owing to their inability to pay up call moneys.

The official association of the share bazaar is the Bombay Share and Stock-Brokers' Association and it is located in Dalal Street, Fort, Bombay. It consists of about 485 members and a committee of 16 out of that number, is appointed to manage the affairs of our stock exchange. This Committee of 16 is known to the outside public as the board of the stock exchange. Unlike the London stock exchange, any body who purchases a membership card at the auction sale can, on a deposit of Rs. 30,000, become a member of the stock exchange and no certificate as to the status or character is needed ; while on the London stock exchange a candidate for admission must be recommended by three members of no less than four years' standing, each of them must engage to pay £ 500 each to the creditors of the candidate in case the candidate makes a default or proves a failure within four years of his membership. Over and above that, very strict enquiries are made as to the status and character of the applicant, and furthermore, the recommenders of the candidate are expected to possess personal knowledge of the applicant. Now, our share bazaar in Bombay, like all other stock exchanges in the world, though in name a private institution, is a public institution for all intents and purposes, because the public operate on this stock exchange to the extent of lakhs and crores of rupees through the members or the brokers of the stock exchange, and there seems to be no outside control on the conduct and affairs of the stock exchange to protect the interests of the public at large. The public, whom I might call the investors, have no voice at all in the election or selection of the board or of its

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members who may, according to their whims and caprices, frame rules and decide the most momentous questions that may arise out of the dealings of the investing public. In short, they are the dictators to the public. Now, Sir, as we have seen, this board consists of 16 members who are brokers themselves and are generally interested in the stock exchange in one kind or the other kind of business, in what is generally known as "*teji*" or "*mandi*",—bullish or bearish. This board of 16 can shut the stock exchange any day and at any time they like, and for as many days as they like, and the public business is left to their entire mercy. While dealing with this point, Sir, I may point out that protests after protests, for years together, have been made to the stock exchange about the closing of the bazaar, but I am sorry to say that no heed has been given as yet to those protests. I go further, Sir, and say what this board can do. Secondly, they can fix the price of any share, or scrip, stop the transactions of that share or scrip according to their sole discretion, and unfix the price and bring the same scrip again on the exchange. Thirdly, they can further, under their sole discretion put up any scrip for forward transactions. I would make this point quite clear to the House. Out of about the 101 cotton spinning mill shares, there are only 16 or 17 on the list of the forward transactions—what we generally call the "*Vaida*" list. It is under the sole discretion of this board to put whatever securities they want to put out of the rest of the cotton mill shares and transact business in those securities without any attention being paid to the public interests. Fourthly, they can declare a corner in a particular scrip and fix the price of that scrip or stop business in that scrip. Fifthly, they can at any time open transactions in that scrip on which business was stopped and they may secure a corner in that scrip. Sixthly, the committee, that is, the board, can make and unmake any rules of management without the sanction of the general body of members. Unfortunately, Sir, under the present constitution of our share bazaar, this organisation which ought to exist solely for the fulfilment of certain economic and financial functions is in no way effective. The most important function of the stock exchange is to direct the flow of capital into investments, and I am sorry to say, Sir, that this function our stock exchange in Bombay has entirely failed to perform. I say so, because there are no settled rules and no regulations beyond the deed of association and it is doubtful whether the stock exchange has succeeded in promoting and inculcating just and equitable principles of trade and commerce. The exchange is never brought under rigid disciplinary control, and the board has failed to supervise the conduct of its members. There are no rules prohibiting fraudulent and unbusinesslike practices in the buying and selling of securities, stocks and shares and prohibiting fictitious transactions. The whole of the general investing public is left to the mercies of this so-called board of sixteen members. As I said they are brokers themselves, and as such, they are interested in doing business in a very large way as brokers for themselves and through their own nominees either as bears or bulls. And these very men sit in judgment in matters of public investment amounting to crores of rupees, declaring whenever it suits them a corner in a particular scrip or scrips after allowing the public to come in for a little while and then declaring a corner. This they do under the guise of rule 26 of the association. Now this rule has not been questioned in any court of law as yet. The rule appears to me to be *ultra vires* of the deed of association. Besides it is very vague. And the board, as I shall point out hereafter has many a time exercised their authority under this rule in declaring corners in many scrips.

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The rule is :—

**If a single individual or syndicate of persons enter into sales and purchases of shares beyond reasonable limits and if under those circumstances the board infers that there is going to be a corner in the shares of a particular company or any other fraud connected with the dealings in the said shares, the board will intervene and fix such rates as they may think proper for the said shares.**

The board under this rule acts very freely and passes whatever resolutions they consider necessary with regard to declaring corners in a particular scrip or scrips in which either they have dealt themselves largely or through their own nominees. In the opinion of most respectable and well-informed citizens of Bombay, the board while acting under this rule has not acted reasonably and fairly and equitably to all parties in many cases. I am not going at this stage, Sir, to enter into the motives of all those transactions, as to how and under what circumstances those corners came to be declared. I think, Sir, my purpose will be served by saying that there is no decided and settled policy which the board can adopt in such matters. The members of the board are generally influenced by their own position in the market according to the proportion of the business done by them and for them through their nominees who are also brokers. There are instances in which some of the directors of the board, who voted on one side in a particular case at the meeting of the board, gave their votes on the other side in a similar case simply because their position was changed from bull to bear and *vice versa*. Now I do not want to go, Sir, into the history of many corners on this stock exchange, but I do wish to point out for the enlightenment of honourable members a few instances in which a control on the business of the scrips was placed by the board and in which the corners were declared. First, I would take, Sir, the board's resolution dated the 18th January 1921 declaring a corner in the well-known shares of the Fazulbhoy Mills and fixing the rate at Rs. 2,125. Secondly, I would take the board's resolution dated the 22nd February 1921 and the resolution goes to this effect that till further notice is given business or badli in the shares of the Currimbhoy Mills should not be done by any member at a higher cost than the settlement and fixed the rate at Rs. 2,150. Thirdly, the board's resolution dated 1st October 1921 dealing with shares of the New Great Mills. Fourthly, the board's resolution dated 21st January 1922 declaring a corner in Finlay Mills shares and fixing the price of these shares at not higher than Rs. 1,885. Fifthly the board's resolution dated 2nd June 1922 putting a check on the business of the Nagpur Swadeshi Mills shares. Sixthly, the board's resolution dated 23rd June 1922 again putting a restriction in business on the Kohinoor Mills shares and stating that business should not be allowed to be transacted under the rates fixed by them. Seventhly, the board's resolution dated 2nd June 1922 to the effect that after 1921 August settlement would be completed business in the Nagpur Swadeshi Mills will be allowed on the first opening day after the termination of August settlement and they resolved in this matter that no member should do any business in the said shares according to the above resolution. And lastly the board's resolution dated 25th August 1922 declaring the corner in the shares of David and Currimbhoy Mills and fixing that cash for certain business of September 1922 will not be allowed in the shares of that mill at higher than Rs. 1,915 and Currimbhoy Mills shares at Rs. 2,175. As I said, Sir, I do not wish to go into the evils of abuse at this stage as to how these restrictions on the scrips which I have mentioned came to be put and in the scrips in which corners are declared. But I will say this that these resolutions show what huge specula-

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tion there was and must be on the stock exchange which has been actually drifting into dangerous waters and has now reached a point where the intervention of this legislature is abolutely necessary. As you know, Sir, the speculators have been rigging the market for some time past and the genuine investors are misled and practically ruined. The events of last six months show that a certain section of the operators has been cornering a very large number of shares in several cotton mills or carry them over from month to month with the help of some of the directors and members of the board, and are ruining the genuine investors. I may tell the Council, Sir, without any fear of contradiction, that some of the directors of the board were interested in this group of speculators and the so-called syndicate and that when it came to the knowledge of the general body of the members they were forced to resign.

You will allow me, Sir, to pass a side remark just at this stage that the growth of facilities for lending money on the security of these shares in Bombay has contributed not a little towards encouraging this gambling on the stock exchange on a very wide scale and, Sir, if our Indian Princes instead of financing and helping these operators on this stock exchange and earning a return out of such transactions.....(An Honourable Member : Order, order.)

The Honourable the PRESIDENT : I cannot prevent the honourable member from saying anything which is relevant to the resolution, and if any Indian Prince is involved in the transactions with which he is dealing, he may refer to him but in a very polite, not offensive manner.

Mr. M. A. HAVELIVALA : It is far from my mind, Sir, to refer to any Indian Prince. I say, Sir, that as financiers if Indian Princes.....

The Honourable the PRESIDENT : I hope I have made myself quite clear. If an Indian Prince chooses to take part in these transactions with which we are now dealing under the resolution, then he puts himself in a position which invites comment, and I cannot fetter the liberty of speech of any honourable member. But that ought to be done in a polite manner.

Mr. M. A. HAVELIVALA : I only say, Sir, that if financiers and Indian Princes, instead of financing and helping these operators on the stock exchange and earning a fair return out of such transactions for their investment, were to invest their money in solving burning questions for which capital is mostly needed, for example, the housing accommodation, they not only would be getting a fair return for their capital out of such investment but also would earn the gratitude of the public at large. I mean at a time like this if Indian Princes were to come forward and get from Government large tracts of land on easy terms in the suburbs of Bombay and help Government and the public in building houses on these lands, they will render a public service and besides they will earn a fair return for their investment. Everybody will admit that, in view of all this gambling that is going on on the stock exchange, some steps are necessary to so regulate the working of our share bazaar as to keep speculation, as far as possible, within control.

The Honourable the PRESIDENT : The Indian Princes are, according to the principle of the constitution, feudatories in alliance with His Majesty, and the same rule applies to them as that in the case of foreign powers in the House of Commons. Nothing disrespectful should be said about them.

Mr. M. A. HAVELIVALA : I have not said anything disrespectful about them or anybody. On the contrary, I do seek their help at a time like this when we want more houses in the city and suburbs. If such Indian Princes,

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who are naturally anxious to earn a fair return on their investments, were to invest their huge fortunes in building houses for the public, I say, Sir, with all respect for their patriotism that not only would they be earning a fair return on their investments, but they would also be earning the gratitude of the masses of the people.

The Honourable the PRESIDENT : What has that to do with this resolution regarding the stock exchange ?

Mr. M. A. HAVELIVALA : I only said that as a side remark.

The Honourable the PRESIDENT : Side remarks always raise side issues, and I must rule them out of order. I wish the honourable member would point out their relevancy to the resolution.

Mr. M. A. HAVELIWALA : Everybody will admit that, in view of the huge gambling that is going on, some steps are necessary to so regulate the working of our share bazaar, as to keep speculation, as far as possible, within control. It is undoubtedly acknowledged on all hands that the present conditions, leaving as they do the door wide open to the so-called syndicates or groups of operations for indulging in speculative transactions on the stock exchange, and causing great inconvenience and loss to the investors, are far from satisfactory. It clearly follows from this that whatever the struggle on the stock exchange between the bulls and the bears may be, the public of Bombay ought to be protected. The public cannot do without the stock exchange, and, in view of the commotion that has been created owing to the declarations of the corners in several scrips, and in view of the alarming reports which go round the city of Bombay at present as to the financial status and position of the so-called operators, one is naturally frightened to invest his money in securities, which, in the ordinary course, he would have willingly done. The evident result of this is that the *bona fide* investor is naturally frightened and that necessarily reacts to the prejudice of commercial and industrial development of the Presidency.

The Honourable the PRESIDENT : May I remind the honourable member that he has exceeded his half hour by ten minutes ?

Mr. M. A. HAVELIVALA : I will finish in a minute more, Sir. We are therefore face to face with a public danger and a public nuisance, and if nothing is done by this legislature, the *bona fide* investors of this Presidency will keep aloof, thus retarding industrial activities of this Presidency. This is the verdict of the city of Bombay to-day. Hence, it is absolutely necessary to proceed rather cautiously, and let a committee be appointed to investigate into the whole question fully and suggest ways and means as to what form of control is necessary, with a view to safeguard the interests of the investing public.

Mr. NAOROJI M. DUMASIA (Bombay City, South): Mr. President, I wish to move an amendment.

The Honourable the PRESIDENT : I think we had better hear him, and if the amendment is accepted by the mover, then the debate will proceed upon both.

Mr. NAOROJI M. DUMASIA : Sir, I beg to move :

"After the word 'committee' in the first line, add the following words namely, 'consisting of two representatives of each of the following interests, namely, investors, industrialists, and brokers and presided over [by an officer with judicial experience'; omit

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the word 'should' in the second line; *for* the words commencing with the word 'status' in the second line and ending with the words 'great city' in the last line, substitute the following:—

'constitution, status and working of the Bombay share and stock exchange, and to report to Government what reforms and actions are necessary in order to place the exchange on a sound, efficient and healthy footing, so as to secure the confidence of the investing public and safeguard their interests.'

The amended resolution will run as follows:—

"That this Council recommends to Government that a committee consisting of two representatives of each of the following interests, namely, investors, industrialists, and brokers, and presided over by an officer with judicial experience be appointed to enquire into the present constitution, status and working of the Bombay share and stock exchange, and to report to Government what reforms and actions are necessary in order to place the exchange on a sound, efficient and healthy footing, so as to secure the confidence of the investing public and safeguard their interests."

Mr. M. A. HAVELIVALA: Sir, I accept the amendment.

Mr. NAOROJI M. DUMASIA: A great deal of discussion has of late taken place in and outside the place as to the affairs of the Bombay Stock Exchange which has been reduced really to a very sad pass and which has been brought into public ridicule, though every effort has been made by the public and some of the able members of the exchange itself to place it on a sound footing. The matters have been allowed hopelessly to drift by the committee of management (or I may say, the committee of mismanagement) of this stock exchange. The public of Bombay have cried aloud for reforms, but their complaints have not been heeded and unless the legislature intervenes, the board of directors of the exchange will not move an inch in the matter and the result will be that there will be a financial crisis in the city of Bombay. I welcome this resolution inasmuch as it gives an opportunity to ventilate public grievances on the floor of this House, but the resolution does not go far enough—it does not touch the real issue, it goes on the side track. What is needed is that we must go to the root cause of the mischief. The so-called corners are only the surface cause—these corners are created by bears over-selling stock which they do not possess; they sell thousands of shares which do not exist and which they do not possess and they create corners against themselves. This is a view which should not be lost sight of when we consider the present state of affairs in the Bombay share market. Sir, as I have said, this is only a surface cause, but we have to probe below the surface to find out the causes of rottenness and corruption that is going on in the share market and to which the present demoralised state is due.

I am a member of the stock exchange and therefore perhaps I can speak with a fuller knowledge and experience than any other member of this House as to the deplorable conditions of affairs at present existing on our stock exchange. Sir, for the privilege of being a member of this stock exchange I had to pay Rs. 40,000. Originally membership could be had for Rs. 5; then it was increased to Rs. 1,000 and ultimately it has gone up to Rs. 40,000. I therefore submit, Sir, that I would welcome any enquiry that would stop the ruination in our stock exchange which has ceased to perform its real functions for the last several months. I would welcome an enquiry, but I submit that the enquiry that is undertaken should not be in the arid region of fruitless discussions of corners, but it must be directed through profitable and fruitful channels for the purpose of protecting the interests of the public, industrialists and banking institutions which are the mainstay of the exchange. Hence my amendment for a more comprehensive enquiry which seeks to go to the root cause of the mischief and avert the calamitous crisis which threatens our

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Presidency and our country, unless prompt steps are taken to set right the wrongs that have been inflicted on the public. In the first place, I submit that a great deal of misapprehension exists among members of the exchange as to their own rights. These members seem to be obsessed by the idea that the exchange is a private body which exists only for the interests of members only. If this fallacious idea is removed, then a great deal of ground will be cleared. A public exchange is a public trust and everybody connected with it is a trustee for the public and it does not lie with us to say that the exchange exists for the interests of the brokers alone. At present the board of management acts in a way as if there was no public and as if there were no public interests at stake although they are solely partonised by the public. In order to have the monopoly of power, the board of management, or what is called the board of directors, formed a caucus last year in order to shut out certain members from becoming members of the board. They therefore hurriedly passed a rule that those members who were not of five years' standing should not be eligible for election. In this way a caucus was formed and the formation of the caucus was the starting point of our present misfortunes and troubles. The exchange must act as if they were the servants of the public; they are acting as if they were the masters of the public. I am of opinion and many prominent members of the exchange are also of opinion that unless Government intervenes no reforms will be undertaken by the board or by the general body of the exchange. Sir, I may say that the whole constitution is rotten to the core, its rules are antiquated, illiberal and autocratic and they are put into force in a most autocratic manner just as it suits the members of the committee. What we want is a brand new constitution with a liberal set of rules which may be automatic in action. It is the duty of the State, that is to say, the Government also to safeguard the interests of the public when their attention has been drawn to the fact that the public interests are allowed to suffer on account of the autocratic conduct of the board of management, and the State cannot shirk their responsibility. I say openly that if the State shirk their responsibility, and if a crisis occurs, the State will also be held responsible especially after their attention has been drawn to the grievances of the public in regard to this matter. I will not traverse the ground already covered by the honourable mover of the resolution, and I will not say anything about cornering. I wish to mention one point which the honourable mover has omitted, and that is, the effect of rules being passed one day and rescinded the second day has had a disastrous effect on the public, and the public have suffered a great deal in consequence of their taking somersault day after day. For the July settlement the price of Currimbhoy Mills scrip was fixed at Rs. 1,790 and David Mills at Rs. 1,850. Two months later the price of Currimbhoy's was fixed at Rs.2,175, and that of David's at Rs. 1,975. This is the arbitrary way in which the board acts to the detriment of public interests.

The Honourable the PRESIDENT: The houourable member has only four minutes more.

Mr. NAOROJI M. DUMASIA: I shall finish within four minutes, Sir.

This is the arbitrary way in which they fix prices of shares. Last year, they put up on the Vaida list the shares of twelve companies, in some of which they were interested. The prices of those shares went up, but after they had realised and secured profits for their shares, they passed another resolution that those shares were not to be placed on the Vaida list owing to certain difficulties.

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Then our new rules which were under consideration for several years were to be brought up for consideration at a meeting of the general body, and in July last a meeting was convened ; but it never took place. In the notice convening the meeting it was expressly stated that certain rules were passed last year and which gave them the monopoly of power but they were not allowed to be discussed. What can you expect from such a body which wants to monopolise power, and allow public interest to suffer and decline to allow illiberal rules to be amended. I hope the Government will now understand their responsibility, and take action in the matter, and the only way in which action is possible is by passing a legislation.

Mr. M. A. HAVELIVALA : There is not much difference between my resolution, and my honourable friend Mr. Dumasia's amendment. I accept the amendment.

The Honourable the PRESIDENT : There is difference in this : " consisting of two representatives, etc. " That is specific.

Mr. M. A. HAVELIVALA : I accept the modification and the amended resolution may be placed before the House.

The Honourable the PRESIDENT : It would be better if the honourable member by leave of the House withdraws his resolution leaving the amendment to stand as the principal resolution.

Mr. M. A. HAVELIVALA : Have I got the right of reply ?

The Honourable the PRESIDENT : The honourable member accepts the amendment and withdraws his resolution. The amendment may take the place of the original resolution by leave of the House.

Mr. M. A. HAVELIVALA : The difficulty is whether the resolution in the amended form will be allowed to stand in my name.

The Honourable the PRESIDENT : Then the amendment becomes the substantive resolution, and the honourable mover of the original resolution having accepted it by leave of the House may have the right of reply.

Mr. NAOROJI M. DUMASIA : I will not quarrel about form.

Mr. M. A. HAVELIVALA : What I want to make out is, now that the mover of the amendment has no objection to allow the amendment to stand in my name as my original proposition, whether it can be allowed to stand in my name.

The Honourable the PRESIDENT : Yes : that can be done by the leave of the House.

Mr. M. A. HAVELIVALA : I ask for leave to withdraw my resolution in favour of the amendment.

The original resolution allowed to be withdrawn in favour of the amendment.

Sardar Khan Bahadur A. M. DALAL ( Broach District ) : Sir, I heartily support the resolution moved by my honourable friend, the honourable member from Bombay. I do not wish to traverse the same ground, as the honourable member has exhaustively treated the subject, and waste the time of this honourable Council. We are told that this Bombay stock exchange is passing through a very great crisis and is left with a frenzied finance. I go further and respectfully beg to say that it is fraudulent finance and that the time has come or the intervention of the State. The only question which we have to consider

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in this House is—we all know that it must be stopped—whether State intervention is necessary or not. In my humble opinion the time is quite ripe and the people are complaining that without State intervention no effort will be made by the present stock exchange to mend its methods. We know that we have given our assent to the passing of the first reading of the Cotton Trade Control Bill, because that trade was not conducted on correct lines and there was some element of danger which, by the enactment of an Act, is sought to be removed. The State has intervened in the case of the race-course. There is some justification in the race-course, some slight justification, as it encourages sportsmanship, but in this connection of the stock exchange, there is absolutely no vestige of ground for any non-interference. In the cotton trade we know that speculation to a more or less extent is necessary for the conduct of forward transactions. We know that in the race-course there is some slight justification, but.....

The Honourable the PRESIDENT: May I request the honourable member not to drag in anything but the stock exchange? We are now only concerned with the stock exchange and, if the honourable member introduces horse racing, somebody else might introduce golfing and a third honourable member foot-ball, and so on.

Sardar Khan Bahadur A. M. DALAL: Very well, Sir. The resolution does not commit Government to any definite action just at present; it does not commit honourable members to take any precipitate action in enacting legislation. It simply recommends to Government that more information should be gathered from experts who are hard hit (Honourable Members: Hear, hear) and in the interests of public morality and public safety Government should intervene and get as full and comprehensive information as possible in order to guide them or us as to whether or not a legislative measure is necessary for the removing of this gross mismanagement of the stock exchange. When I put a question to Government with regard to this question, Government have answered me that they have no information in regard to this. Of course, Government have not officially any information; but now that questions have been put, that resolutions have been moved and a strong case has been made out, I hope Government will not assume a *non possumus* attitude but will give their wholehearted assent to the acceptance of this resolution.

I have nothing to do with the stock exchange. I have no dealings on the stock exchange. I only say on behalf of the investing public, of which I am a well-wisher, and as one of the legislators in this House, that I think it is the duty of this House to recommend to Government to intervene at this stage. Before I put the question to Government, I consulted several authorities who have intimate knowledge of these matters and who are most competent to give the benefit of their advice. I asked the opinion of Sir Dinshaw Wacha and he wrote to me that without State intervention nothing can be done (Honourable Members: Hear, hear). I went round and consulted some of the managers of the banks, and they all unanimously told me, without any exception, that State interference was necessary. I interviewed some eminent journalists and they were all also of the same opinion; so that there is a consensus of opinion that this thing should not be allowed to drift. Government might say that it is a passing storm, and it will blow over and things will settle themselves into a calm state soon. I think not. The evil has grown to such enormous proportions that, for the interests of the investing public and for the interests and protection of public morality, it is necessary that the State should

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come in. Unfortunately for us, those giant stock brokers and financiers, the late Mr. Premchand Roychand and Sir Shapurji Broacha, are no more and their place has been taken by men of inferior status, inferior calibre and inferior commercial morality. In some quarters objection is taken that, if those badli transanctions are stopped, the occupation of the brokers will be gone and that the banks would suffer in their transactions. Far better that the occupation of the brokers should go and the banks should suffer than that the public should be sacrificed and fraudulently cheated to the extent of lakhs and crores of rupees. This is only a method of defrauding the public on behalf of unscrupulous brokers. Therefore, I say without any further remarks that this resolution should be accepted by the Council and the Government.

Mr. G. B. TRIVEDI (Thana District): Sir, I agree so far that the time has come when Government should intervene, but I fail to see why we should ask for a committee of enquiry. If the matter is urgent, why not leave it to the Government themselves to find out what is the present state of things and propose measures? In the Cotton Trade Control Bill the Government did the same. They called the leaders of the trade together; they consulted them; and then they proposed the bill. In the same way, if the crisis is there as regards the stock exchange, why appoint a committee? It will take Government perhaps one month to find out proper persons to serve on the committee; then the committee will have to sit and deliberate, and it will take about two or three months more. Therefore, the state of things that is painted to us will be blacker by the time the committee has finished its deliberations and reported, I mean the result will be disastrous. Therefore, we should not ask Government to appoint a committee, but we should ask Government to enquire into this matter. The Honourable the Leader of the House was, I understand, formerly connected with the new share bazaar as a director and chairman and he would be the proper person to advise Government, and Government might call together a few persons, a few brokers and others, and then put proposals before this Council. Therefore, while I support the demand for Government intervention, I am against the appointment of a committee. (A voice: "Why not move an amendment?") I beg to move:

"That all the words from 'a Committee' in the first line of the resolution as amended up to the word 'appointed' be left out."

I hope the Council will support it.

Mr. S. K. BOLE (Bombay City, North): Sir, I beg to support the amendment. I am neither a bull nor a bear, but from the view-point of the public I think both of them are birds of the same feather.

The Honourable the PRESIDENT: Order, order. The speech must be confined to the amendment.

Mr. S. K. BOLE: I am coming to the amendment.

The Honourable the PRESIDENT: Please come to it at once. The honourable member will have an opportunity of speaking to the original resolution afterwards if the amendment is lost, but now the speech must be confined to the narrow point of the question whether a committee should be appointed or whether Government should themselves enquire. Let honourable members confine themselves to that narrow point.

Mr. S. K. BOLE: Sir, the matter is very urgent. If a committee is appointed, it will take some time to report. The matter is so urgent that Government should come forward and put a stop to such speculations and save the public.

Sardar Khan Bahadur A. M. DALAL : Sir, may I say a word ?

The Honourable the PRESIDENT : The honourable member has spoken once and has no right to a second speech. What does he want ?

Sardar Khan Bahadur A. M. DALAL : Sir, I wish to know what are the views of Government on this point. It will save time if you will ask the Government member.....

The Honourable the PRESIDENT : I have no right to ask them. I take it that the Government realises the radial difference between the resolution and the amendment. The resolution specifically asks for enquiry by a committee, whereas the amendment leaves it to Government to make an enquiry either by its own officers, without a committee, or by calling a round table conference, any member of Government presiding.

Mr. M. A. HAVELIVALA : I think, Sir, in a matter like this of great public importance we ought to proceed rather cautiously, and a committee would be far preferable. It is no use rushing into a very hasty legislation. I myself wanted to bring in a legislation on the same basis as the Cotton Control Bill, but after having thought over it I preferred to proceed by a resolution. A committee will be more competent to sift the *pros* and *cons* after examining the various members of the public, brokers, industrialists and financiers, and then come to a definite conclusion whether any check or control is necessary. Now, the stock exchange is an institution of great prominence, and we ought not to curb or restrict it by any hasty action lest we may have to repent it in future.

No harm will be done to this cause for the simple reason of delay for a short time. On the contrary we should do well to proceed cautiously towards a reform which is long over-due. I hope in these circumstances my honourable friend would, with a view to help this legitimate cause, withdraw his amendment and allow the original proposition as amended to be passed.

The Honourable Mr. H. S. LAWRENCE : Mr. President, the point to which we are now directed to turn our attention is, Sir, a question whether there should be an inquiry made by Government or whether it should be an inquiry by a committee.

The Honourable the PRESIDENT : I should again point out that the amendment is so comprehensive that it may include even a committee.

The Honourable Mr. H. S. LAWRENCE : Sir, the position which Government is disposed to take on this resolution and which also applies to the amendment, is this that there is no doubt there has been a great deal of gambling on this stock exchange in Bombay and there is no doubt that this gambling is very undesirable. But although this has been done for many years, as far as I am aware there has been no representation on the subject ever made to Government from the natural representatives of the interests chiefly concerned—the natural representatives of the great commercial and industrial interests in Bombay, namely, the Chamber of Commerce, Indian Merchants' Chamber and Bureau, Millowners' Association and such like other bodies. So far, Sir, I am not aware that any of these bodies have ever addressed any appeal to Government to intervene, nor have we been asked to make any inquiry whether any control is necessary. Now, if no such representation has been received from these important bodies and interests, one naturally inquires....

The Honourable the PRESIDENT : May I say that the Honourable the Finance Member is going into a larger question instead of confining himself only to the narrow point ? Government is free to say what kind of inquiry they

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would undertake. We have at present to get rid of the amendment. The Honourable the Finance Member can make the general observations when he will be addressing the House on the original motion.

The Honourable Mr. H. S. LAWRENCE : It seems to me, Sir, that I am on the horns of a dilemma which is a very unfavourable situation. If the amendment is carried, Government will be committed to an inquiry, and I am not given an opprortunity of discussing the question whether an inquiry is indeed called for.

The Honourable the PRESIDENT : I have already suggested that Government can take up any attitude as regards the question whether it should be a general inquiry or whether it should be an inquiry by a committee, and that therefore they are not committed to anything. What the House would like to know at present is whether Government would like a committee or whether they would like it to leave it to them to decide what kind of inquiry it should be.

*After recess.*

The Honourable the PRESIDENT : Order, order. The horns of the dilemma were explained to me by one of the Members of Government during the recess hour and instead of wasting time over what that difficulty is, I think the best course to adopt would be this : The general rule no doubt is that when an amendment is proposed to a motion then the debate should be confined to the narrower point of the debate, but where an amendment is of such a nature as to give a wider scope for discussion than the original motion, then the discussion may take place both upon the amendment and the original motion taken together. In the present case the amendment suggests any kind of inquiry by Government. It may be an inquiry by a committee or it may be an inquiry of any other character. The amendment gives a wider scope for discussion than the original motion, and therefore I will allow a debate upon both the amendment and the original motion, at the same time. After the debate I will put the amendment, and if it is not carried, I will put the main question without further debate. The Honourable the Finance Member is at liberty to make a speech upon the whole question and explain the difficulties of Government.

The Honourable Mr. H. S. LAWRENCE : Mr. President, I was saying that on this very important matter Government would have expected to receive before this representations from such bodies as the Chamber of Commerce, Indian Merchants' Chamber and Bureau, Millowners' Association and other such representative societies. They have not so far been approached by any such representative associations, and naturally in matters of such extraordinary complexity and intricacy as transactions on the share market or on the cotton, the bullion and other markets, Government are exceedingly reluctant to intervene unless they are confident that in so doing they have the strong and vigorous support of public opinion and of the persons who are chiefly interested. In this instance, Sir, we have had much valuable information given to us by the honourable members from Bombay and of course we are aware there has been some discussion in the public press. If those honourable members can show that there is a general anxiety in the city of Bombay and if Government are approached by these associations, Government will certainly take these representations into their most sympathetic consideration. That being so, Sir, I do not think it is necessary for me to discourse at any greater length on the

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particular points which have been presented to us in the interesting and informing remarks of the honourable mover of this resolution and the mover of the amendment. These matters will receive the fullest enquiry and consideration if Government are addressed and moved by those associations of which I have spoken.

Now, Sir, with reference to the immediate resolution before this Council, Government are quite prepared, if there are two opinions on it, to leave the matter to be decided by the varying opinions of the non-official members here present. If, however, there is an unanimous demand, Government are prepared to accept the feeling of this House, and to make further enquiry. But, before doing so, they would much prefer that definite representations should come from those associations which I have named.

Rao Saheb D. P. DESAI (Kaira District): Mr. President, my honourable friends from Bombay do deserve the congratulations of this House for bringing this matter before the Council for its consideration. I should think that, after we have passed such drastic legislation about cotton transactions, and accepted the principle of State interference there is no reason why similar legislation should not be passed in the matter of share and stock transactions. To my mind, these share and stock transactions have a double claim on the consideration of this House. In the first place, the parties affected or profited thereby are not outsiders. Stock is not an export article. The merchants too do not belong to any outside country just as some of the cotton traders do. They should not be allowed to go to such length as to live by cutting each other's throats and by robbing one another. That is one reason why I would like that the transactions on the stock exchange should be the peculiar concern of this House. Another reason why it should be the special concern of this House is that the stock exchange is a market for Government paper and it should be to the interest of Government and its credit if the stock exchange is based on a proper foundation. If therefore the foundation is weak and the stock exchange is conducted on very objectionable or doubtful principles, and there is no moral stamina therein, then I should think that Government would also proportionately suffer; these are the reasons why I say that the transactions on the stock exchange do require to be enquired into and controlled. However, when everything is said, the request to this House on the part of the two honourable members is not a matter of credit to the city concerned; somehow or other, we have to admit that the modern citizen of Bombay has lost the high character of his predecessors. He has taken so much to these speculative transactions and gambling for his living that he appears to have forgotten the old honest way of business and decent living and so far this tendency to take to speculation on the stock exchange has spread that, if my information be correct, even the best and the most highly placed in Bombay gamble on the stock exchange like anything. Mr. Trivedi has.....

The Honourable the PRESIDENT: Order, order. No honourable member should be mentioned by his name.

Rao Saheb D. P. DESAI: My honourable friend from Thana has brought forward a very comprehensive amendment, and I should think that the House will do well, in order that the matter be not delayed, to carry that amendment. But in his amendment there is one flaw. While trying to correct his neighbours, the Bombay people, he has forgotten to correct the Ahmedabad people, who are my neighbours.

The Honourable the PRESIDENT: What about Ahmedabad?

Rao Saheb D. P. DESAI : There are stock exchanges in Ahmedabad also which require to be inquired into and corrected.

The Honourable the PRESIDENT : We are now concerned with the Bombay stock exchange.

Rao Saheb D. P. DESAI : I was going to say that Ahmedabad should be included:.....

The Honourable the PRESIDENT : Order, order. We are not concerned with anything outside Bombay. The discussion must be confined only to Bombay.

Rao Saheb D. P. DESAI : My honourable friend from Bombay, the mover of the resolution, has stated that at present there is serious danger of a crisis, similar to the Back Bay crisis of 1863 coming over Bombay. I agree with this view, and I think, Sir, somehow or other there appears to be some connection with the Back Bay and financial crisis. The present crisis also has coincided with, if not been preceded by, the Development Department.....

The Honourable the PRESIDENT : How is that relevant ?

Rao Saheb D. P. DESAI : The Development Department's Back Bay scheme.....

The Honourable the PRESIDENT : What has development to do with the question before the Council ?

Rao Saheb D. P. DESAI : I was going to say, Sir, that when the first, *i. e.*, the old scheme of filling in the Back Bay was floated there was a financial crisis. At present too.....

The Honourable the PRESIDENT : Order, order. The honourable gentleman will bear in mind that the proposal is for an enquiry, either by a committee or such other form of enquiry as Government may undertake, into the causes of the present condition of the Bombay stock exchange. The development scheme is outside the resolution. I think the honourable member wishes to pull the legs of somebody in the Development Scheme for some reason or other, but I must pull his legs now.

Rao Saheb D. P. DESAI : I wish to leave it there. My honourable friend from Bombay has suggested that these corners on the stock exchange have brought about the present state of affairs on the stock exchange. I should think, Sir, that a corner on the stock exchange means in itself nothing. There may be a corner of a particular article or a particular product which is quite limited and none need be sorry for it, *e. g.*, if there are a thousand shares of a particular concern, and if any person wants to buy up the whole lot, he is fully justified in doing so. I do not see any reason why any man should not corner all the shares of any particular mill or particular industry. But what is objectionable in such transactions is that the ordinary man, who following these big financiers or those people who with large capital at their back corner particular products, stands sometimes to lose and most of such people come to ruin, and so in order to safeguard their interests rather than the interests of big persons or of those people who enter into corners, the proposed enquiry should I think be made. The interests of these ordinary *bona fide* investors, require to be safeguarded. With these remarks I resume my seat.

Mr. R. G. SALGAR (Sholapur City) (Addressed the House in Marathi) : Mr. President, I rise to oppose both the resolution and the amendment moved by my honourable friends from Bombay city. Operations in shares are a

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system of commerce just as there are other forms of trade. I should therefore think that there is no necessity to bring in any regulations or in any way fetter the hands of those people who wish to deal in this perfectly legitimate form of business. If it is intended to put any such artificial limits on share transactions, why should not Government attempt to circumscribe similar deals in linseed, in silver, in gold and in many other commodities such as pearls and so on? Thousands and lakhs of rupees are made and lost in such huge enterprises; some become poor and some become rich. If share business is interfered with in the manner in which it is sought to interfere with it, then Government will have to take similar action in many other directions of a similar character. I therefore recommend that both the resolution and the amendment should be rejected.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, it is rather difficult to give an intelligent vote when the Government Member himself is sitting on the fence. I expected some lead from the opposite benches, but it seems Government have not received any representation from the proper quarter and it also appears that Government has come to the conclusion that the non-official members forming this House are not in any need of a lead. By that it is meant that we should exercise our intelligence in this depleted House when the attendance of non-officials is very near zero, perhaps with the exception of a few members. The position therefore becomes rather difficult and I have not yet known of any case in the civilized world where Government has thought fit to control stock exchanges. I may be wrong, but it does appear to me that it is rather a mysterious affair, as was pointed out by my honourable friend from Sholapur. If it is meant that because there has been some sort of control in cotton transactions, that there ought to be control on the stock exchange also, I do not quite agree there. I do not know whether there are any representatives in this House who are interested in any other commodity. Suppose this House is asked to give its opinion, what opinion are we going to give? I could not say "yes" or "no" unless I could form an intelligent conclusion based on facts and figures and experience. However, the discussion that we have had will serve this purpose, namely that the attention of Government will be drawn to it. If there is gambling going on, there is the Act, and the law should be tested and after the law is tested if it is found not to be quite sufficient for the purpose, then the Government should move and suitable legislation should be brought in, but Sir, because certain people have been gambling in shares and because their operations are likely to bring ruin to others, to my mind that is not a very good ground or proper occasion on which this House should pronounce a definite opinion. After all, a good many of my honourable friends to whom I have spoken know absolutely nothing about this matter. We have never gambled—we do not know what are these shares and these bears and these bulls—we merely invest a little money and we get our interest. Who gambles in them God alone knows.

Then, my other objection is this, that this is simply a measure that applies to the Bombay stock exchange only. We are people coming from mofussil and do not know Bombay conditions and do not know their needs. Therefore we should not stand as judges on their character and it is extremely difficult for us, as I have been saying, that out of about 80 or 85 non-official members we have at this moment in this House only about two dozen members who have to vote on such an important resolution which it is sought to rush through in this lean House. I therefore recommend both to the honourable

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mover of the resolution and to the honourable mover of the amendment that they should think it over once more and if we come to the conclusion that it is absolutely necessary to do so, Government perhaps will also make its enquiry and then will be in a position to give us a lead which will enable us to give an intelligent vote. Government will not then be sitting, as at present, on the fence. Whichever course they adopt, we do not care.

Mr. President, the point is rather very serious and very important, from this point of view, because it is likely that if a precedent is set by dealing with the stock exchange in the manner suggested now, other interested people will be asked to move certain resolutions actuated by the best, by the most honest and the most upright motives and the question will therefore be whether this House should give a lead by a vote which cannot be based either on experience or on knowledge of the actual state of affairs. What struck me most was that the position of Government is unassailable, namely that the vested interests—I mean those which are really affected by this huge gambling—have made absolutely no representation so far. That means, that the particular interests which are concerned with this corner or with this gambling on a large scale, have made no representations—whether they make or lose money does not affect us, but the fact remains that these vested interests have not yet moved an inch and that is evidence enough, I take it, that the position is not so bad as is depicted in this House. The House will therefore be well-advised in throwing out the motion altogether—both the resolution and the amendment alike—or the honourable movers should withdraw their motions at the present stage and try to bring them up again in a more prosperous House. I think by waiting till next December nothing will be lost and I therefore hope that both the honourable mover of the resolution and the honourable mover of the amendment will accept the suggestion I have just thrown out.

The Honourable the PRESIDENT: I call upon the honourable mover of the resolution for a reply. The honourable mover of the amendment has no right of reply.

Mr. M. A. HAVELIVALA (Bombay City): Mr. President, I join in the regret which has been expressed by my honourable friend from Ahmednagar district that a matter of such great public importance has got to be discussed in a House with such a poor attendance. I assure the House that there was no desire on the part of anybody to rush this important resolution through in the manner alleged by the honourable member who preceded me. It has taken its ordinary course and I myself should have liked to see a more prosperous House when a matter of such importance was being discussed so that the whole question could have been thoroughly gone into in all its aspects. However, Sir, the resolution has been discussed both from the point of view of Government and from the point of view of several non-official members, who know the financial tension of the city of Bombay at present. They think in the interest of the Presidency that this resolution should be carried. So far as I gauge the situation from the speeches of the honourable members I find only one point, and it is this: whether the enquiry to which everybody agrees should be made by a committee under the sanction of this House, or whether it should be left to the entire discretion of Government to make enquiries in any way they like.

At the very outset I appeal to the honourable mover of the amendment that this is a matter, as I said, in which we ought to move cautiously. If the

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Council were to leave the whole matter to Government, it would be very difficult for them to make their own independent enquiries. If a committee of this Council recommends to Government, then Government will be forced to make sufficient enquiries through that committee, which will come to a conclusion after examining the *pros* and *cons* of the whole question. That decision will be open for discussion in this Council. After that if any legislation is needed this Council will very readily agree to it. So, instead of dividing ourselves on a small matter like that, I appeal to my honourable friend to withdraw his amendment. Another point which I should like to make clear is with regard to the remarks of the Honourable the Finance Member. He says no definite representation has come from the interested parties. But may I remind the Honourable the Finance Member that vested interests will never move? If any legislation is to come, it is not from the vested interests. I do ask him with all earnestness whether he is not satisfied from the speeches of the various gentlemen and from the complaints made to him that the public opinion is in favour of this resolution. Will he say 'no' to that? No; he will not. If he says 'no', I will withdraw the resolution. May I remind him that he just now admitted that various gentlemen of independent views have complained to Government of the serious situation in Bombay? No man can better judge than the men of the city of Bombay of the existing situation. Not only that, but the opinion of the city is fortified by the opinion of the press of Bombay. Since the resolution came on the agenda of the Council, nobody has raised a voice against it. On the contrary, it has been supported all round. I am sorry for the timidity of Government in standing aloof. The view of the honourable non-official members is in favour of the principle of the resolution, and the Government should come forward to accept it. I may say, Sir, the honourable member who represents the Indian Merchants' Chamber is not here to-day. I have had an occasion to ask his opinion as to what he thought of this resolution. He said that the whole of Bombay was echoing the resolution.

The Honourable Mr. H. S. LAWRENCE: What?

Mr. M. A. HAVELIVALA: Echoing my resolution. I am sorry he is not here to-day to voice the feeling of Bombay. I have received a telegram from the Chairman of the Bombay Chamber of Commerce. I asked the Chairman of the Bombay Chamber of Commerce to be here and hear the discussion as it goes on in this House and to offer his views as to what he thinks of this resolution. Unfortunately, as a serious situation has arisen in Bombay, it has kept him in Bombay at present, but he has sent me a telegram wishing every success to this resolution. Apart even from these two bodies, here there are so many non-official members who all have unanimously agreed to the principle of the resolution. My learned and honourable friend from Ahmednagar opposes the principle, and I cannot understand the mentality of my honourable friend. He says it concerns only the city of Bombay and there may be some interested motive. I may remind my honourable friend that I do not belong to the stock exchange in any way. I am neither a "bull" nor a "bear" and I do not hold any brief for any of the interested parties concerned, but I do say, with all the emphasis at my command and without any exaggeration, that I do hold a brief for the whole of the city of Bombay and the investing public, and also I have not come across a single person of the stock exchange, who does not approve the resolution, and I am very glad to say again that the whole

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of the city of Bombay is at one with me so far as this resolution is concerned. So I do appeal once more to my honourable friend from Thana that in effect and in substance there is no difference between my honourable friend and myself—absolutely no difference at all. The method he wants is to go to Government asking them to take any lead they like. But are we not here to say to Government, "If you take the lead in that direction, take the lead from the point of view that we place before you"? That is, take two representatives of each from investors, industrialists, bankers and brokers — those who are interested in the stock exchange—take their opinion and do what is best in the interests of all the parties. So I do appeal to my honourable friend Mr. Trivedi not to press for a division.

The Honourable Mr. H. S. LAWRENCE: Mr. President, all I can say again is that Government are very anxious to receive the opinion of this House and will be guided by the opinion which they do receive. In so far as a distinction exists between the resolution as originally moved and the amendment, Government would prefer not to be committed to the exact form of the committee of enquiry which the honourable mover of the resolution put forward, namely, to have a committee consisting of two investors, two bankers, two industrialists, and two—I am not sure whether the word is "disinterested" or "interested"—brokers.....

The Honourable the PRESIDENT: The word "disinterested" was taken out.

The Honourable Mr. H. S. LAWRENCE: I understood the honourable member spoke just now about "brokers who are interested". But I was going to point out that our difficulty would be to find out suitable persons to serve on the committee. At any rate, a committee composed in the fashion suggested by the honourable member would be somewhat difficult and would be also somewhat large and unwieldy. If it is the wish of this House that an enquiry should be made by Government, Government will be very pleased to carry out the will of this House, specially as it has been pointed out by the honourable mover, the member who last spoke, that he has had the support of two distinguished names representing the Indian merchants and the Chamber of Commerce.

There is no doubt, Sir, that this is a most thorny subject and Government certainly can give no guarantee as to what line of action can eventually be taken. As the honourable member from Ahmednagar has, I think, in very wise words pointed out, this appears to be a form of Government action for which there is little or no precedent in the world. There has been one precedent in the case of Germany, where there is very stringent control over stock exchange operations. Opinion is very greatly divided as to the advantages of that control in Germany. I speak of days before the war. Some people say that enterprise in Germany has been greatly checked by that control, that investors imagine that when they put their money into concerns they have got the guarantee of Government that those are good concerns, and thereby the weaker or the more ignorant people suffer still greater losses and hardships than they do under the present system when practically every man, woman or child who goes to the stock exchange knows that the transaction is at his or her own risk. If the idea spread abroad that there was any sort of Government sanction or guarantee behind the schemes that might be put forward by the stock exchange, that

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result may be still more dangerous to the ignorant investor up-country. However, that is going much farther afield, Sir, and I do not presume to forecast what may be the result of an enquiry to be made in the future. At the moment, we are only concerned with the question whether there should be such an enquiry, and if this House will give us a definite expression of their wish on that point, Government will be very glad to consider it most sympathetically.

Question put that the words proposed, to be left out do stand, and negatived.

Amendment carried.

The Honourable the PRESIDENT: There is a consequential amendment. The word "consider" is to be substituted for the words "report to Government".

Amendment carried.

The original question as amended put and carried.

Rao Bahadur R. R. KALE (Satara District): Sir, I beg to renew my request for priority for my resolution.

The Honourable the PRESIDENT: I have got discretion to give priority but that discretion should be very sparingly exercised. I propose to give assent to a demand for priority only where two conditions are fulfilled: one is that all those honourable members whose resolutions are prior to the resolution for which priority is asked ought to give their assent; and secondly, that the resolution for which priority is asked should be of an urgent nature coming within the definition of 'urgency' under the adjournment clause. First of all, let me see whether the first condition is fulfilled. Are all the honourable members whose resolutions have priority prepared to agree?

Mr. BHATE: I agree.

Mr. S. K. BOLE: I agree.

Dr. K. E. DADACHANJI: I agree.

Rao Bahadur R. M. NILKANTH: I agree.

Rao Bahadur G. K. CHITALE: Mine is scratched out.

Mr. B. V. JADHAV: I do not agree.

The Honourable the PRESIDENT: There the honourable member asking for priority is blocked. I will therefore call on the honourable member for the Kolaba district to move his resolution.

Mr. G. C. BHATE: Sir, I venture to move the following resolution for the acceptance of the House:

"This Council recommends that the Government should see its way to introduce the following rule in Grant-in-aid Code: that in all schools and colleges which receive Government aid in any form what soever the attendance by students to any class of special religious instruction, which the parents or guardians of such students shall not have sanctioned, would be perfectly voluntary and that no payment in grand-in-aid should be made to any institution which will contravene the provisions of this rule".

Sir, I have framed this resolution in a technical language, but if the resolution is to be described very shortly, it is a resolution to introduce the conscience clause in our Grant-in-aid Code. Sir, I believe that the history of this clause is well known to many of the honourable members of the Council. This conscience clause has a long history of its own. The question has been

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agitating our minds for the last so many years. From the time of the first Educational Despatch of 1854 down to 1882 there was a hot contest between two schools of thought as regards this conscience clause. There was one class of opinion that the clause should not be introduced and there was another opinion, largely Indian, that this clause should be introduced and there should be no compulsion on students to attend religious classes to which their parents took objection on grounds of conscience. In 1882 a commission was appointed by Government and the whole question was considered by that commission. The recommendations of that commission were rather halting and did not fully meet Indian opinion. It was recommended by that commission that if the only institution available in a town or a village is an institution in which religious instruction forms part of the ordinary course of studies, it should be open to the parents to withdraw their children from attendance at those religious classes without forfeiting any of the benefits of the institution. That was the recommendation of the commission of 1882. But the Government after considering that commission's recommendations came to the conclusion that even that recommendation need not be given effect to in the code, because they thought that no practical inconvenience had resulted at that time. One of the members of that commission, the late Justice Telang, has written a minute of dissent, in which he has strongly represented the case from the Indian point of view. But apart from that, the present question is whether the view of Government that there was no practical inconvenience is borne out by present circumstances. My submission is that it is not. Can it be said that no practical inconvenience has resulted from the absence of the conscience clause ?

Now, as regards the present state of this question, we see that this conscience clause has come up before the Legislative Councils of other provinces. The United Provinces Council adopted a resolution in August 1921 similar to the one that I have placed before the Council. And I learn that not only that resolution has been passed, but that action has been taken by the United Provinces Government on the strength of that resolution, and in their code this conscience clause does appear. I know that in one of the Provincial Councils, that is of Madras, a resolution in similar terms was not accepted, but the case of Madras is stated to be a very peculiar one. If you read the proceedings of that Council, you will see that it is an exceptional case. So the general opinion seems to be that this clause is a necessary safeguard in our Educational Code. As regards this question of conscience clause, one point to be noted is that it appears even in our Educational Code for Anglo-Indian and European Schools. Europeans and Anglo-Indians, when they send their children to a State-aided institution, have got the option to withdraw their children from classes where the children are inculcated in a faith in which they have no belief. Thus, while parents of some children are given that option, why in the case of Hindu, Mahomedan and Parsi parents should that option be refused ? This is an invidious distinction. That is certainly an anomaly and one of my objects in moving this resolution is to remove that anomaly. Government have to a certain extent accepted this policy in their press note of the 5th of July 1921. In that press note Government say,

"While they have no intention whatever of receding from their attitude of strict religious neutrality or from the principle that schools and colleges under public management ought not to be used as a means of fostering any one religion at the expense of others and while adhering to the opinion that religious instruction ought to be and can best be given to children by their parents or by the regular teachers of religion, they have decided that the existing embargo on

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such instructions in publicly managed schools and colleges may be to a certain extent relaxed They have accordingly been pleased to issue the following orders :—

(*a*) School and college premises may in future be used for religious teaching or simple prayers either just before or just after school hours, provided that (1) there is no local objection (2) the teachers appointed are acceptable to Government or the local body concerned and (3) no ceremonial observations are included. A slightly greater latitude may be allowed in the case of hostels in regard to the last proviso ;

(*b*) The services of a teacher in the service of Government or a local body should not however be utilized for imparting religious instruction :

(*c*) Religious teaching or observance cannot be made compulsory for day students, but in the case of students residing in hostels compulsion may be allowed under proper safeguards, only if the parents or guardians so desire. "

So what I submit is that in this press note the principle of the conscience clause has been admitted by the Government itself in the case of religious instructions if they are given under the rules that have been framed in this press note. So even according to the recent policy of Government they have done so and this is not a new move taken by the Bombay Government. So late as 1882 the Government of Bombay have given their opinion on this point. On 2nd October 1888, the Government of Bombay have written to the Government of India as follows :—

" If parents or guardians should hereafter desire their children to receive religious instruction Government might properly consider whether permission could not be accorded with the provision of a conscience clause. "

So this opinion of Government is practically carried out in the press note of August 1921. So my submission is that the principle is acceptable. In the same manner even many eminent missionaries have accepted this proposition. As an instance I may cite one recent instance of Rev. C. Kingsley Williams, who in his paper says that authorities in missionary colleges should cease to make attendance at religious instruction *compulsory*. On this point he had written a paper so early as 14th of April 1921. In recent years also there is an opinion prevailing among those who are conducting missionary schools which goes to support the principle underlying this resolution. The Bishop of Madras has also given his opinion that if the Indians ask for a conscience clause, then Government cannot refuse their demand for introduction of such a clause in their grant-in-aid code. So viewing from all points of view it appears that it is really a matter of national importance whether a particular parent should be forced to send his child to a school which insists upon having religious instruction compulsory to which they have conscientious objection. That being the point of view in this resolution, I hope the Council will willingly accept the proposition and have the rule inserted in the grant-in-aid code as asked for in this resolution.

Mr. G. B. TRIVEDI (Thana District): Sir, the honourable mover has raised the question of the conscience clause whether parents should not be allowed to withdraw their children from schools and colleges where religious instruction is given which is against their religious tenets. As I, Sir, believe in religious education and as I also feel that the absence of religious education in a school or college has done much harm and is doing much harm, I would not be a party to the exclusion of religious education whether from a school or college, but supporting the claim of religious education so far and bearing testimony to the good that missionary schools and colleges have done up to now, in giving a moral tone to the education in this country and having also my personal respect for the Christian religion, I could not oppose or do anything

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which would hamper the good work of missionaries in the matter of education. But reluctant as I am to see religious education wholly debarred from our schools and colleges, I think that time has now come when each community ought to take up the question of religious education in its own hands and with this awakening of national feeling it would be better if all missionary bodies, as some of them have already done, recognize the principle that they will provide voluntary religious education to those who will like to attend and will not force it on those who will not like to attend, as for example in some of the colleges run by Catholic denomination, as for example St. Xavier's College where they put it on a voluntary basis and they ask only those who would like to attend it to do so. But the whole question has arisen in this Presidency on account of a certain Christian missionary body making it compulsory on their students—(An Honourable Member: Wilson College)—yes—making it compulsory on their students to attend that religious instruction. Now I do understand the difficulty of that body. I do realize their difficulty because I know that a great part of their money comes from people who are interested in the spread of the Christian religion and therefore I do understand also their difficulty. If therefore a resolution of this kind were passed and the grant were withdrawn it would be very hard with that college which has done so much good work in the past to find that money. But at the same time I feel that, as the question has been discussed in Scotland, which is the principal seat of this missionary body, they have realised the position, and they have come to realise that sooner or later—it is only a question of time; it may be a year or two, or four years hence—this conscience clause will come in every Presidency, and therefore they have resigned themselves to the inevitable position. Therefore, although it would be a little hardship to them, at the same time, it is a question of one college and one missionary body, and I do hope and trust that interested as that body is in the spread of Christianity, they would rather like that spread to be on a voluntary basis than on a compulsory basis, which benefits hardly any students, knowing as we do how students take advantage of that class and the religious instructions given there. That body ought to recognise that it is in the interest of their own religion that it should be rather on a voluntary basis, as in the case of the St. Xavier's College, rather than make it compulsory and create bitterness as was visible a year or two ago in that college. Therefore, as I have put it, although I do believe in religious education, and although I do believe in the good that the Christian bodies have done in this Presidency in the matter of the spread of education, both in schools and colleges, I do feel that the time has come when they should agree that Indians should be left to give their children religious education in their own way. Personally, I would not object, but when it is a question of the general public, then I do feel that they ought to be reasonable and they should agree to this.

I will only say one thing, that in the interest of this body this Council, if it is minded to pass this resolution, should give them sufficient time to re-adjust their financial condition, and therefore a time limit may be added at the end saying that after a period of, say, two years this thing may be done. That would be a reasonable concession to their financial condition, and therefore I would suggest it to the mover of the resolution or to any honourable members who may follow me to add such a limitation if they think proper. Personally, I do think that whenever we make a change we ought to be reasonable and we ought to give them sufficient time to readjust their things. With these few remarks, I support the resolution.

The Honourable Dr. R. P. PARANJPYE : Mr. President, I wish to move the following amendment to this proposition :

" After the word ' colleges ' in the second line the following words be added :
' which are either the only institutions of their kind in the neighbouring area or which are not purely denominational in the sense of refusing admission to pupils not belonging to one particular religious denomination and.' "

The resolution as amended will read as follows :

" This Council recommends that the Government should see its way to introduce the following rule in Grant-in-aid Code : that in all schools and colleges which are either the only institutions of their kind in the neighbouring area or which are not purely denominational in the sense of refusing admission to pupils not belonging to one particular religious denomination and which receive Government aid in any form whatsoever the attendance by students to any class of special religious instruction, which the parents or guardians of such students shall not have sanctioned, would be perfectly voluntary and that no payment in grant-in-aid should be made to any institution which will contravene the provisions of this rule. "

My point, Sir, is that while the general principle enunciated by the honourable mover may, at the present moment, be too wide to be put into force at once, one can very easily understand that in what may shortly be called single school areas, the imposition of a conscience clause would be necessary and desirable. Mr. President, the question of religious instruction has been the main battlefield of all educational controversies in England for the last 50 years and more. I do not wish to go into those controversies. As regards the general question of the desirability or otherwise of religious instruction, personally, as several of my friends know, I hold very revolutionary views, and I have not hesitated to give public expression to them on various occasions when I was in rather a more independent position. But, leaving that general question aside whether religious education is of any good at all, whether the results that are to be obtained by such education are actually obtained, and whether such results as are expected would not be obtained otherwise, I come to consider the particular question that has been raised by my honourable friend. I have already said that, according to the terms of the amendment that I have moved, I will accept his contention to a limited extent. When any institution is the only one of its kind in any area, and it is supported by a Government grant-in-aid, then it is reasonable for the people of that area to contend that the children who are practically compelled to attend that institution, who have only Hobson's choice so to say, should not be compelled to attend compulsorily any religious instruction. To that extent, I believe, everybody will agree with that provision, but in the conditions of India at the present moment, and taking into consideration the whole scheme of our public education and the principles on which we give grants-in-aid, it will be, at this moment, a very dangerous and almost impracticable thing to pass this resolution in the terms that have been given by the honourable mover. It is considered that this question is purely a question of Christian missionaries. I wish to point out that although that part of the question looms large in the public eye, that is not the only part of the question. There are institutions giving religious instruction in various religions. There are Mahomedan schools most of which, I believe, have all their pupils compulsorily attending Koran classes. They may be Urdu schools, but there is no particular guarantee that no non-Mahomedan students will attend those Urdu schools—in fact the schools are theoretically open to everybody who wants to get the instruction that is given in those institutions. I am told that there are a certain number of Jain institutions ; there may be certain number of Theosophical institutions and various other institutions which base their educational principles on religious education. I want to ask honourable members whether we are going to scrap this policy which has underlain our educational system for so

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many years. Remember, Sir, that this Government is committed to religious neutrality. That neutrality means pre-eminently that we must not interfere in the internal management of any religious body. Missionaries are free to do what they like in their own institutions; Mahomedans are allowed to do as they like in their own religious institutions; Hindus are allowed to do as they like in their own religious institutions—provided what they are doing is fully known outside and is entirely above board. I lay special emphasis on that condition. Take for instance the particular illustration of the case of the Wilson College. After all, that is the case that looms most in the public eye and I am therefore going to come to grips with that case. I leave aside for a moment the fact that the agitation against the Wilson College, although outwardly of the nature of a conscience agitation, is, as you remember and as this House knows, mainly political in its character. The Wilson College has never concealed the fact that students that are admitted to that institution will be compelled to attend their religious instruction half an hour every day. That condition has never been concealed from any student that attends that college. On the other hand, is the Wilson College an institution which a student that wants collegiate education must necessarily attend? I do not think that such a contention can be sustained. In Bombay there are two more colleges and a student who is particularly keen on not attending a class of religious instruction that he does not like need not necessarily go there on account of the practical circumstances of the case; he may go to either of the other colleges, namely, the St. Xavier's College, where religious instruction is confined only to the Catholic students of that college, or to the Elphinstone College which does not give any religious instruction at all.....

(Mr. Trivedi at this point stood up and asked a question which was inaudible.)

The Honourable the PRESIDENT: If the Honourable Minister, when he is addressing the House, allows an interruption, then he must resume his seat and allow the interruptor to stand up and have his say, but two honourable members should not stand together to address.

The Honourable Dr. R. P. PARANJPYE: To see whether there is any practical difficulty, I have made enquiries into that matter. I asked particularly the authorities of the St. Xavier's College and of the Elphinstone College whether they had to refuse to admit any students who might be presumed to have rushed to those colleges on account of their unwillingness to enter the Wilson College, but the answer that I have received from those authorities was that no students have been refused admission into those colleges, so that the ground is entirely cut away from under the feet of those who feel that the Wilson College authorities even in that most remote manner compel any student to attend their religious instruction against their will. I believe, Sir, that that being the case, the agitation against the Wilson College is mainly of an interested nature. Each college must obviously, in order to keep up its efficiency, conduct its own education in the manner that suits it best. Take for instance even this possibility, that the Wilson College under an order of Government stops its compulsory religious education. Do you think that students that attend that college will still be free from their religious influences that are the very foundation of the work that is being conducted there? All the conductors of the Wilson College are missionaries; they have come to this country simply because they are led on by a particular kind of religious zeal to do that kind of work. If not in that particular half hour of the day in which the students are required

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to attend the Bible class, when expounding an English text-book or giving a lesson in history or philosophy or any other subject, the missionaries can always show to the pupils what their religious convictions are. Personally, of course, as I have said, I do not think that compulsory attendance at a religious class does any good at all. This compulsion has a way of putting up the backs of pupils who think that no religious instruction should be forced down their throats. I quite understand that that may be the attitude of a certain number of pupils and I believe that no institution has lost very much by making attendance at religious classes voluntary, that really speaking better results may often be expected by making religious instruction voluntary, but this is a matter only for the managers of the institutions to consider. All that we have to consider is whether any real religious difficulty is involved in this question and I feel in this case, which is after all the most prominent case, no difficulty has been experienced. My honourable friend, the mover of the resolution, referred to the Government order of last year. We quite understand that there is an amount of public feeling on this question of religious instruction and although Government have been pledged to religious neutrality, by that order Government gave certain optional facilities to religious bodies to impart the education that they want. I have often felt that a good deal of this agitation is merely a newspaper agitation—agitation for the purpose of abusing Government—because I have found that many institutions have not taken advantage of these facilities placed before them. We asked private gentlemen or bodies who were said to be very keen on religious instruction to come forward and make arrangements. Government said they would give all reasonable facilities for that purpose, they would place a special room at the school at the disposal of the organizers and so on. All these facilities were offered to them. After all, this agitation in newspapers, we might have felt, contained a great deal of substance in it, but all this agitation has not led to the actual use of these facilities. What shall we say then when I find that the agitation is to a great extent of a very artificial character? I am glad that my honourable friend, the member for the Thana district, has given a tribute of praise to the work that has been done by the missionaries in this country, and I fully associate myself with that feeling. Missionaries have done a very great deal of educational work in this country; they were almost the pioneers of education in this country since about a hundred years ago when they first opened in Bengal. In the Bombay Presidency, the number of mission schools is not very high; private bodies have taken the work of education mainly in their own hands; there are only two missionary colleges, a few missionary schools and a certain number of schools working among the lowly and the depressed. The missions are engaged in conducting these schools and important colleges, but a very large and important part of their work consists in conducting schools for the backward classes in backward villages which are never taken care of by any private body, and in which Government have not opened schools of their own. The people in these villages are taken care of by these missions. While one may object to compulsory religious education of a humble kind, because little children in these schools are not probably able to understand the religious education given there, still one must admit, every one of the honourable members, the work the missions are doing is of a very valuable kind. I, therefore, think that we should not accept a general proposition of the kind laid down by my honourable friend. But in view of the hardship that might be caused by the existence of a single school

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of its kind in any area, we might accept that resolution in the modified form that has been proposed. I feel that the concession I am prepared to give will meet the necessities of the case, and the Council need not go very much further.

The Honourable the PRESIDENT: Discussion of both the original resolution and amendment may go together.

Mr. B. V. JADHAV: Sir, I welcome the amendment proposed by the Honourable the Minister for Education. I myself was educated in a Christian high school and in a Christian college, and I was determined to oppose the whole resolution. But, inasmuch as Government have come forward to limit the operation of this resolution in a reasonable way, I think I ought to support Government in this respect. But, at the same time, I would beg to suggest another amendment which would make the resolution more acceptable to the House. Mission schools and colleges are working in places where the same educational facility is supplied by other institutions, Government or private, or where they are the only institutions. In the former case the question whether students should attend missionary schools or not depends upon the choice of their parents or guardians. If they do not like that their children should receive religious education, they may remove their children from those institutions, and send them to another near by where religious education is not given. In that case nobody has any cause to complain against religious education in missionary schools and colleges, and therefore the amendment suggested by the Honourable Minister for Education is perfectly reasonable and ought to satisfy this House. In places where there are no other schools and where parents have to send their children to the schools conducted by Christian missions, the case is somewhat different. But, I think this agitation against Christian teaching is of a very recent origin and has been started, as the Honourable Minister for Education has openly declared, as a piece of political propaganda. I feel no respect for it. Missionary schools and colleges have done a vast amount of good to this country, and I do not think that other religions are injured by them. We Hindus for instance are very apathetic about giving religious education to our children in our religion. But we are opposing the missionaries for giving religious education. In mission schools children are taught the duties of man towards his brethren, the other human beings, and the spirit of social service of a high order is inculcated. I was very much surprised at the spirit of service and sacrifice seen in a village near Poona, Hadapsar, where there is a model co-operative society and other institutions. I asked the chairman of the co-operative society whence he and the other members of the managing committee had got the idea of the duty of man towards man, and what reply did he give? He said he and his friends had imbibed it in the vernacular school conducted by a missionary lady for the last 40 years. If that school had not been started in that village about 40 years ago, Sir, that splendid co-operative institution, which is a model one, would never have come into existence. Missionary schools, Sir, have done a great deal of good. If we care to see the social progress going all around us, we shall find that the germ is in the education given in the missionary colleges and schools, and therefore we ought not to be so very unwilling to recognise the debt of gratitude we owe to these missionary schools. As for the education of the depressed classes, the missionaries were the pioneers and they have done so much for them that the members of the depressed classes and other Hindu communities ought to be ever grateful to them, and if and when

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this resolution is accepted as suggested by the honourable mover or as amended by the Honourable Minister for Education, that leads to the closure of even one school for the depressed classes conducted by the missionaries, I shall be vastly sorry. I am, therefore, going to propose, Sir, that the word "English" should be inserted before the word "schools".

The Honourable the PRESIDENT: In the amendment or in the original resolution ?

Mr. B. V. JADHAV: In both, Sir.

The Honourable the PRESIDENT: It will be open to the honourable member to move that amendment after we have disposed of the present amendment. But, he has spoken already and I am afraid a second speech is not allowed.

Mr. B. V. JADHAV: I am against the resolution, but if it is to be accepted, it ought to be amended as proposed by the Honourable Minister for Education, but subject to the condition that the word "English" should be added as proposed by me.

Free and compulsory education, Sir, is now promised to us.....

The Honourable the PRESIDENT: The proper procedure is, after we have got rid of the amendment, either by having it carried or rejected, then will be the time to consider another amendment. But the honourable member (Mr. Jadhav) has no right to a second speech. He may ask another honourable member to move the amendment he proposes.

Mr. B. V. JADHAV: Even if the amendment is lost, I should like to add the word "English" there.

The Honourable the PRESIDENT: But then, the honourable member has not the right of a second speech. If he will ask some other honourable member to move his amendment in proper time, that will be in order provided the amendment is allowed.

Mr. B. V. JADHAV: Very well, Sir.

The Honourable the PRESIDENT: Then, the honourable member from Satara may continue his speech; he has got only three minutes more.

Mr. B. V. JADHAV: My reason for suggesting the amendment is, Sir, that the vernacular missionary schools are generally in places where there are no other schools and the funds for those schools are contributed by Christian missions on condition that Christian education is given in them and those funds are supplemented by the Government grant. If the grant is withheld, the missionaries will be obliged to close some of their schools and in that way primary education will be denied to some villages. That will be a great calamity. Free and compulsory education is coming, and if schools are opened in such villages by Government or by local bodies, then of course, the parents and guardians will have the choice of sending their children to the Government school or the local board or the municipal school, instead of to the mission school, and in that case education will not suffer. But until their schools are started by the Educational Department or by the local bodies, the mission schools ought to be maintained and the children who are receiving education in the mission schools ought not to be deprived of it for a mere conscience clause. I therefore submit, Sir, that there is no necessity of passing this resolution at all. In the Madras Council it was not passed and I think the conditions of Madras and the Bombay Deccan are nearly on a par. There the

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Brahmin non-Brahmin controversy is raging and here also the same question is growing bitter. Reference has been made to the case of the United Provinces, but the instance of the United Provinces does not apply to this Presidency. I therefore say that this resolution moved by my honourable friend from Kolaba ought to be negatived.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, I wish to add my meed of praise to the efforts of the missionaries, such as there have been, in the direction of promotion of education. But I cannot accept for a moment the interpretation which is intended to be put by my honourable friend the nominated member from Satara upon the amendment moved by my honourable friend the Education Minister. That will take away, Sir, in my humble opinion the whole principle underlying the resolution which has been moved by my honourable friend from Kolaba. What is intended to be sought, Sir, is this: that for all classes of education, to all schools imparting education, to which Government is bound to give a grant-in-aid, the principle of religious neutrality has to be enunciated. The principle of religious neutrality is that, so far as the State is concerned, the State is anxious to foster the growth of education on altogether a basis of religious neutrality. Now, if the amendment of my honourable friend is accepted, then at the earlier stage of education, when young boys are growing up, if the local bodies and the Educational Department will be induced not to go in for schools simply because there are other facilities, I believe, Sir, that the amendment is not worth having. Let the Government, if it likes, accept the whole responsibility. We will vote the resolution as it is. To oppose it or to qualify it by saying that this religious neutrality should be applied in the first instance only to English schools and colleges, or in other words schools and colleges where English is taught, including also upper primary schools where English is taught, would in my opinion be disastrous. That action will create a misunderstanding of the motives of Government. It will be noticed that as far as publicly managed schools and colleges are concerned, the press note which has been issued by the Government is absolutely clear. Firstly,

> "School and college premises may in future be used for religious teaching or simple prayers if well-constituted outside bodies offer to make provision for such teaching or prayers either just before or just after school hours, provided that (1) there is no local objection, (2) the teachers appointed are acceptable to Government or the local body concerned, and (3) no ceremonial observances are included. A slightly greater latitude may be allowed in the case of hostels in regard to the last proviso."

Secondly,

> "The services of a teacher in the service of Government or a local body should not, however, be utilised for imparting religious instruction.

And thirdly,

> "Religious teaching or observance cannot be made compulsory for day students, but in the case of students residing in hostels compulsion may be allowed under proper safeguards, only if the parents or guardians so desire."

The point is that religious neutrality is safeguarded, while the good efforts of missionaries are encouraged. Where there are various competing institutions, the parents have the liberty of sending their children to a school or college where denominational religious instruction is not imparted. In such a case if the parents like to send their children to a school managed by Christian or other denominational bodies, then the parents do it on their own responsibility knowing full well that their boys are likely to grow up in those religious surroundings. I do not wish to shut my eyes to the fact that at present in many of the districts missionaries are educating students and imparting to them

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primary education. In my own district there are about a hundred schools where we had none before. As the local bodies and educational authorities would not open schools in those villages, the result of the limitation proposed by the honourable member who spoke before me would be that the children in those villages will have to grow up in those religious surroundings. If this limitation proposed by my honourable friend is accepted by Government, the motives of Government will be misunderstood. I wish to avoid that position altogether. We know as a matter of fact that the local bodies are not opening schools in those places where missionary schools have been at work for a pretty long time : in fact by not opening schools in those very places they have failed to do their duty. The Government—I take it that the policy enunciated by the Honourable Education Minister is the policy of Government—has said " As far as religious neutrality is concerned, we keep to our word. We do not wish to give any room for impugning our motives. Where there are competing institutions, we will leave it to the parents to decide where to send their children, but we will not insist that those religious institutions shall not teach a particular religion. But where these institutions stand alone, we shall not allow them to compel students to attend religious classes." The amendment proposed by my honourable friend, namely, that this principle of religious neutrality should apply only to English schools and not to primary schools where children of a tender age attend would in my opinion be disastrous. In high schools and colleges where young men with developed brains attend, and where they will be in a position to know what religion is good or what religion is bad, what moral principle should be followed and what ought not to be followed, the parents in such cases would perhaps be right in thinking that the children attending these schools are not likely to become converts to the teaching. But to say that the little children attending primary schools shall be brought up under the influence of a teaching contrary to the faith of their parents, would, in my humble opinion, be disastrous. I would therefore ask Government that they should not accept this little change which confines religious neutrality only to English schools and colleges, and that they should adhere to the amendment put forward by the Honourable Education Minister.

Rao Bahadur R. R. KALE (Satara District) : Sir, in rising to support the amendment moved just now, I have got to explain the reasons which made the Honourable Minister's amendment necessary. The original resolution as it stands aims at shutting out grants to schools merely because they make religious instruction compulsory anywhere and everywhere. The reason for the first part of the Honourable Minister's amendment is this. If there are more schools than one in any particular area, and if in one of them religious education is compulsory, there will be no objection to give grants to that educational institution because the parent in that locality has a choice to send his children to the other institutions, and if he sends them to the denominational institution he does so with his eyes open and under no compulsion. But where there is only one school within the area and the authorities of that only school compel boys to accept religious instruction, no grants should be given to that school because there is no option left to the parent or guardian, and the parent or guardian is forced against his will, so to speak, to send the child to that school. The State should withhold aid from that institution which stands alone in a locality and for all practical purposes is the only school where all parents and guardians should send their

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children. If education were made compulsory, it would be very hard on the parents or guardians to ask them to send their children to schools where religious education is compulsory.

Now, I come to the second part of the amendment, and that part I think provides for cases of separate denominational institutions which profess to give religious education to particular boys only, namely, boys of a particular religious faith. They openly profess that their schools are open only to those who profess a particular faith—it may be Hindu, Mahomedan or Jain. It may be any religion—Budhism, Hinduism or Mahomedanism. There exist in many parts such schools where such religious instruction is imparted. There are Parsi schools that profess that those schools should not be purely secular. I think the cry has been that education has been rather too much secular. There is no kind of religious education imparted in public schools because the Government is bound to neutrality. Therefore I submit that private persons or private bodies, if they think that this neutrality of Government is harmful and that their children should be brought up in schools which do teach any particular religion which they choose, it should be open to such bodies to have their own faith taught in those schools where Parsi, Hindu, Mahomedan or any kind of religious instruction is imparted, if at the same time they bring the children up to the secular instruction. I submit, therefore, that it is necessary even in such cases to extend the State aid to such kind of educational institutions because as I said it does not compel any person to send his child to the school if his faith differs from the faith which is taught in that particular school. No doubt it may be said that the State extends its aid to a denominational school. It does. But I am somewhat opposed to education being wholly on secular lines. It should be a part of the duty of the State to provide facilities for the imparting of religious education to people who wish their faith to be taught to the children. I know the State should not force upon guardians or parents a kind of religious education which is opposed to their own faith, but at the same time the State ought to afford facilities for bodies which do believe that some kind of religious education is necessary for their children. Such bodies should be encouraged and I submit, Sir, that it is part of the State's duty, really speaking, to contribute some quota of the general revenue for the maintenance of such schools. Remembering the state of education in England where until a very short time ago almost all schools were denominational schools—in fact the whole education was in the hands of the Church, and no doubt there was a long struggle before it was taken out of the hands of the Church—I am not going to say whether that result has been beneficial or otherwise, but it seems to me, I must say, that even though the State has now withdrawn the control of the Church from the schools, still it has not abolished religious education altogether. I only want to say that under this amendment it would be open to religious bodies owning particular faith to open schools and admit children. So it seems to me in a country like India where the neutrality of a foreign Government has been the cause of forcing religion altogether out of their ordinary lines, a time has now come when the State should, if not directly assist a particular religion, at least indirectly it should not withhold facilities from the institutions which according to their own faith teach a particular kind of religion. The press note which has been issued recently certainly seems to me a move in the right direction. That leaves the whole thing to the willingness or voluntariness of the managers of schools. But if we have schools which are managed by particular bodies

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which do think that it is necessary to give religious education to children, then it should be open to them to lay down rules by which they can admit such children as profess that faith, and I think it is part of the State's duty to protect religion just as it is part of its duty to protect individuals from the attack of robbers or to take steps to prevent offenders and criminals from committing crimes. So on these grounds I think the amendment that is suggested by the Honourable Minister should be accepted and that it should be passed.

Major General W. E. JENNINGS: Sir, I move that the question be be now put.

Mr. E. M. PROES: Sir, I propose that the amendment should be put.

The Honourable the PRESIDENT: I accept the closure and call upon the honourable mover for a reply.

Mr. G. C. BHATE (Kolaba District): Sir, there are two amendments to my original proposition.

The Honourable the PRESIDENT: No, not two, there is only one amendment.

Mr. G. C. BHATE: Sir, there is only one amendment to my proposition. As regards that amendment, I only wish to say a few words. The principle of my original resolution has been admitted even by the honourable mover of the amendment and the justice of the conscience clause is admitted. The only question is whether the proposition as laid down by me would be expedient. And it is on the ground of expediency, I believe, that the amendment has been moved.

The Honourable Dr. R. P. PARANJPYE: No, no.

Mr. G. C. BHATE: I hope the Council will see whether my resolution is expedient and desirable or not. The spirit of the amendment and the spirit of the resolution are before the Council.

The Honourable Dr. R. P. PARANJPYE: I am not going to say anything in reply.

Amendment put and carried.

The original question as amended was then put and carried.

Mr. B. V. JADHAV: May I say, Sir, that the word "English" be added.

The Honourable the PRESIDENT: I have already accepted the closure.

Mr. B. V. JADHAV: I was under the impression.....

The Honourable the PRESIDENT: After the closure was moved I put the question.

Mr. M. W. PRADHAN (Thana District): Sir, I beg to suggest that this session be closed to-day, in the interest of non-official business. We have very important resolutions to discuss, and in a depleted House like this, where not even one-fourth of the members are present, it is highly prejudicial that these important resolutions should be discussed. I therefore request, you, Sir, that the sense of the House be taken, and it be decided that the session be closed to-day.

The Honourable the PRESIDENT: I have no right to close the session.

Mr. M. W. PRADHAN: Adjourn the session.

The Honourable the PRESIDENT: When does the honourable member propose that all the other remaining resolutions should be taken up?

Mr. M. W. PRADHAN: At the next session, or at any future time.

The Honourable the PRESIDENT : The next session will probably be in February.

Mr. M. W. PRADHAN : What I said was that most of the non-official members are going away.

The Honourable the PRESIDENT : I understand the whole position, but I want also to make myself quite sure that honourable members have a correct idea of what adjourning this meeting means. The session is not going to be prorogued by His Excellency, but the session is going to be continued in December for the consideration of pending business. It will be confined only to those bills which have been referred to select committees. So, on the 4th of December when we meet again at Bombay, it will be a continuation of this session. This session will be adjourned to the 4th of December by me, and not prorogued by order of His Excellency. In that case, the business then will be only the bills which have been introduced, and which are now referred to select committees. Three days have been allotted during this session for non-official business by His Excellency. Yesterday and to-day—two days have passed. To-morrow will be the third day. But His Excellency has stated that those three days shall be immediately after the completion of the Government business. They must come one after the other. If I adjourn the session now and we do not sit to-morrow, then all these pending resolutions must lapse. They may be renewed by fresh notice in another session, that is the February session, but honourable members ought to be under no misapprehension about the December meeting.

Mr. M. W. PRADHAN : Under the circumstances I would suggest to this House that the whole of the unfinished work should be taken over to the February session by fresh notice. I submit to this House that each and every resolution has a very important principle behind it, and it is no use discussing them when non-official members are present in such few numbers. I do not know whether there will be ten members present to-morrow or not.

The Honourable the PRESIDENT : It is no use wasting time over this. His Excellency has allotted three days for non-official business, and it is my duty to see that the Council does its duty. If honourable members wish to go away, there is an easy way out of it—not to give me a quorum, and then we shall depart. I am not going to give a holiday like that. Three days have been allotted, and I am asked to adjourn before the third day. That I will not agree to.

Mr. M. W. PRADHAN : May I request the House to consider the suggestion to sit to-morrow from 10 a. m. to 2 p. m. so that members may go away early to-morrow ?

The Honourable the PRESIDENT : I am quite prepared to meet at any time to-morrow to suit the convenience of the Council, but to suggest that we must give up the third day is unreasonable.

Rao Bahadur R. R. KALE : Yesterday, we had already lost half of the non-official day.

The Honourable the PRESIDENT : We can make up for that to-morrow. The honourable member who asks me to adjourn this session to-day does not realise his position as a member of the Legislative Council, and if he thinks he comes here just for his own convenience, he is much mistaken. We are not going to attain self-government in that way. We must make sacrifices, and if any honourable member cannot make a small sacrifice, then I think he had better resign his position and make way for others.

Dr. S. S. BATLIWALA (Bombay City, North): Mr. President, I would like to ask your advice on one point. His Excellency has allotted three days immediately after the official business for non-official business. That would preclude us from finishing all our resolutions this session. Would it be feasible, after taking the sense of the House, to request His Excellency that, at the adjourned session which is going to come off on the 4th December, all non-official work which is undisposed of may be allowed to be discussed ?

The Honourable the PRESIDENT: As to that, I have had a discussion with His Excellency. I may say, without breach of confidence, that we discussed all the *pros* and *cons* of the question. At the December meeting two most important bills, which will throw a great deal of burden on honourable members and also on the Chair will be coming in—the second reading of the Local Boards Bill and of the Compulsory Education Bill,—and honourable members already know how much attention has to be paid to that. That is likely to take at least ten days, and that will carry us to the middle of December, and to take up any other work after that is a thing to which I cannot assent. It will be impossible taking up some resolutions after that. The two bills will involve very strenuous work. That will require all the attention that both the honourable members and I can bestow. During those ten days we shall have to strain all our ears and eyes, and devote full attention to the matter, and I cannot agree to taking the resolutions then.

Dr. S. S. BATLIWALA: Some way must be found out whereby non-official work may have a chance.

The Honourable the PRESIDENT: The one hour and a half which Government took away yesterday from non-official business may be made up to-morrow.

Mr. S. K. BOLE (Bombay City, North): Mr. President, I beg to move

"That this Council recommends that a committee be appointed by Government to make enquiries into the grievances of the tenants holding lands under the khoti system in the Ratnagiri and Kolaba Districts."

There are different tenures under the khoti system such as *khoti khasgi*, *khoti nisbat*, occupancy tenants, *dharekari*, quasi-*dharekari*, etc. The khot is a big landlord possessing one village or more. He is responsible to Government for the land revenue which he has to pay and all the cultivators in the village are his tenants from whom he exacts three or four times more than what he has to pay to Government. Sometimes the tenants are required even to part with the whole of their crops produced by them. Prior to the Khoti Settlement Act of 1880, the rights between khots and tenants were not clearly defined. The khots regarded their tenants as mere tenants at will. The passing of the Khoti Settlement Act fixed the relations between the tenants and the khots. However under the Khoti Settlement Act the *abhavni* system (appraisement of the crop) was there and the khots used to make high appraisement and exact high rents by this system from the tenants. When the amending Act of 1904 was passed, it gave a little relief to tenants whose grievance was removed to a certain extent. However, the Khoti Settlement Act and the amending Act did not give full relief to the tenants and the reason of that is obvious, namely, in the old Councils whilst the champions of the khoti system were there, there was no one to watch the interests of tenants. The khoti system is an anachronism in the moderr times. The evil effects that have been produced by this system can be seen in the backwardness, moral, material and intellectual, of the tenants in the khoti villages. There are so many complaints about the exactions and oppressions by the khots that they cannot be enumerated in the time at my disposal. The tenants do not get any remissions whilst the khot enjoys full relief from

[Mr. S. K. Bole]

Government. The system of forced labour is also prevalent in khoti villages. Tenants have to be at the beck and call of the khot and work without any rtmuneration at the time of marriages or other ceremonies at the place of the khot. Tenants are also required to take the *dholis* carrying the male or female members of the khot's family from one village to another without any payment. The rent payable by tenants is also very heavy and it leads to unpleasant incidents when they see that their neighbours in the adjoining villages belonging to the British Government have to pay only the survey assessment whilst they have to pay to their khots nearly four times as much. The khots no doubt take advantage of the ignorance of the tenants and pass no receipts for payment made by tenants. Practically speaking, the tenants are reduced to a miserable state of poverty. They are now awaking from the state of slumber and trying to get free from the clutches of the khots. We may take a lesson from the disputes between the landlords and their tenants at Rai Bareilly which led to riots and murders. In the Kolaba district also the tenants went on strike and some thousand acres of land went without cultivaton. Sir, we all have to depend for our bread on the cultivators and if the land goes without cultivation, then the results will be no doubt disastrous to the country. Under the khoti system the tenants do not feel any interest in the land and do not care to make any improvement. It is strange that this system of slavery should be in existence during these days of democracy, liberty and self-determination. I, therefore, appeal to Government and to the House to adopt the very modest resolution which I have just now moved.

The Honourable the PRESIDENT : The Council is adjourned till 1 p.m. on Saturday the 7th October 1922.

*Saturday, the 7th October 1922.*

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The Council re-assembled at the Council Hall, Poona, on Saturday, the 7th October 1922, at 1 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BOLE, Mr. S. K.
CHITALE, Rao Bahadur G. K.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA
FERNANDES, Major C.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODBOLE, Dewan Bahadur K. R.
GRIFFITH, Mr. F. C.
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
JADHAV, Mr. B. V.
JENNINGS, Major General W. E.
KALE, Rao Bahadur R. R.
KER, Mr. J. C.
LALBHAI AMBARAM, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LIGADE, Mr. S. P.
LORY, Mr. F. B. P.
MACKIE, Mr. A. W. W.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.

Mohomed Salahuddin K., Mr.
Mountford, Mr. L. J.
Mutalik, Sardar V. N.
Nilkanth, Rao Bahadur R. M.
Nimbalkar, Mr. K. B.
Painter, Mr. H. L.
Paranjpye, The Hon'ble Dr. R. P.
Patel, Mr. B. P.
Pradhan, Mr. M. W.
Rahimtoola, The Hon'ble Sir Ibrahim
Rothfeld, Mr. O.
Salgar, Mr. R. G.
Setalvad, The Hon'ble Sir Chimanlal
Surve, Mr. A. N.
Trivedi, Mr. G. B.
Vichare, Rao Bahadur D. A.

The Honourable the PRESIDENT: As regards want of quorum honourable members will understand that, if no honourable member brings to my notice the fact that there is want of quorum and asks for a count, I cannot take notice of it. I have only to take notice of it and direct a count if it is brought to my notice.

Questions.

### Expenses for raising Crops for unirrigated Lands.

Mr. P. N. ADHAV (Satara District): Will Government be pleased to state the average expenses incurred per acre for raising various kinds of crops on unirrigated lands in the Central Division from the records of experimental farms maintained by Government or any other source available?

The Honourable Dr. R. P. PARANJPYE: The figures based on the records of the Agricultural Department for the Poona district are as follows:—

| Crop. | With hired labour (per acre). | With cultivator's own labour (per acre). |
|---|---|---|
| | Rs. a. p. | Rs. a. p. |
| Jowari— | | |
| Kharif .. .. .. | 30 0 0 | 19 8 0 |
| Rabi .. .. .. | 24 10 0 | 14 10 0 |
| Bajri .. .. .. | 20 10 0 | 11 14 0 |
| Wheat .. .. .. | 25 12 0 | 20 8 0 |
| Gram .. .. .. | 10 3 0 | 6 12 0 |
| Groundnut .. .. .. | 66 4 0 | 32 8 0 |

### Grants to Schools.

Mr. S. K. BOLE (Bombay City, North): Will the Government be pleased to state:—

(*a*) What schools have been refused grants either ordinary, building or equipment, and why?

(*b*) In what proportion will the grants be distributed this year?

The Honourable Dr. R. P. PARANJPYE: (*a*) and (*b*) Owing to the imperative need for economy and in pursuance of the promise made to the Legislative Council to effect a reduction of Rs. 60 lakhs in the budget estimates for the current year, a net reduction of Rs. 4,05,000 was made in the budget allotment for grants-in-aid to *secondary* schools and it was proposed that all supplementary grants to these schools should be withheld, while the ordinary grants should be reduced by about 25 per cent. on the average. The matter is however being further considered.

The normal budget allotments for building and equipment grants have been reduced as follows in the current year:—

| | Normal budget provision. | Reduced budget provision in the current year. |
|---|---|---|
| | Rs. | Rs. |
| (a) *Building Grants*— | | |
| (1) Secondary Schools .. .. | 1,00,000 | *Nil.* |
| (2) Primary Schools .. .. | 1,00,000 | 20,000 |
| (3) Special Schools .. .. | 50,000 | 10,000 |
| Total .. | 2,50,000 | 30,000 |
| (b) *Equipment Grants*— | | |
| (1) Secondary Schools .. .. | 12,000 | 8,000 |
| (2) Primary Schools .. .. | 3,000 | 2,000 |
| Total .. | 15,000 | 10,000 |

These reduced provisions for building and equipment grants will be utilized in accordance with the rules in the Grant-in-aid Code.

### Rashtriya Primary Schools in Surat District.

*Rao Saheb HARILAL D. DESAI on behalf of Mr. C. M. GANDHI (Surat City): Will Government be pleased to state the number of rashtriya primary schools closed during the last 12 months in Surat district and the present number of such chools existing therein?

The Honourable Dr. R. P. PARANJPYE: The numbers are reported to be 51 and 99 respectively. The correctness of these figures cannot, however, be guaranteed, as rashtriya schools are not recognised by the Educational Department, and cannot be called upon to supply the necessary information.

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given

### Bombay Presidency Sub-Registrars' Association.

Rao Saheb HARILAL D. DESAI on behalf of Mr. C. M. GANDHI (Surat City): (*a*) Has the application of the Bombay Presidency Sub-Registrars' Association for recognition, referred to in answer to my question on the subject of their representation, at the last sessions of the Council, been sanctioned ?

(*b*) Will Government be pleased now to state what actions they propose to take in regard to the prayers contained in the representation ?

The Honourable Dr. R. P. PARANJPYE: (*a*) Yes.

(*b*) The sub-registrars are being informed that their requests in Resolutions Nos. VI and XI of the Resolutions passed at the sub registrars' conference in September 1921 have already been granted, that the fifth request in Resolution No. XIII will be dealt with in the Fundamental Rules regarding pensions and that the rest of the requests cannot be granted.

### Anglo-Urdu School at Nasik.

Mr. IBRAHIM S. HAJI (Bombay City): Is Government aware of the urgent demand of an Anglo-Urdu School at Nasik ? If so, will Government be pleased to explain why the Anglo-Marathi Middle School for girls was opened when there was already an aided girls' school ?

The Honourable Dr. R. P. PARANJPYE: With reference to the concluding portion of the reply given at the last session, the Anglo-Marathi Middle School for girls was opened because the people of Nasik asked for it and because the aided school was poorly staffed and poorly attended. The Government school has justified its existence, having 46 pupils on its rolls at present.

Mr. IBRAHIM S. HAJI: Do the Government see that they have not answered the first part of my question ?

The Honourable Dr. R. P. PARANJPYE: Was it not answered last time ?

Mr. IBRAHIM S. HAJI: No.

### Grant to Municipalities for Free and Compulsory Education.

Mr. B. V. JADHAV: (*a*) Will Government be pleased to give the names of the municipalities who have resolved to introduce free and compulsory education within their area and have applied for a grant equal to two-thirds of their expenditure on primary education ?

(*b*) Will Government be pleased to say whether the municipality of Talegaon in the district of Poona has applied for the grant ?

(*c*) When was the application first made ?

(*d*) How is the application disposed of ?

The Honourable Dr. R. P. PARANJPYE: Parts (*a*), (*b*) and (*d*) have already been answered.

(*c*) The date of the original application was 19th April 1921.

### Classification of Mangs and Ramoshis.

Mr. B. V. JADHAV: (*a*) Will Government be pleased to state whether they have divided the Mangs and Ramoshis of the Satara district into classes on the lines the Wagharis of Kaira are classified ?

(*b*) Will Government be pleased to state whether the Mangs and Ramoshis of the rest of the district are treated as severely as those of Man and Khatav talukas who are reputed to be turbulent ?

The Honourable Mr. M. H. W. HAYWARD : The answer is in the negative.

There is no difference between the treatment of the Ramoshis and Mangs of the Man and Khatav talukas and that accorded to these castes elsewhere in the Satara district.

DISTRICT GAZETTEERS.

Rao Bahadur R. R. KALE (Satara District) : (*a*) Is the Government aware that the District Gazetteers are all out of print ?

(*b*) Is there any supplementary volume prepared after the year 1904 ?

The Honourable Mr. M. H. W. HAYWARD : (*a*) They are not all out of print.

(*b*) In view of the impracticability of revising the Gazetteers at frequent intervals they are split up into two volumes, A and B, the former containing general descriptive matter which changes slowly, and the latter containing statistics which become out of date in a comparatively short time. The A volumes have not been revised since 1904, and in view of the financial stringency there is no prospect of their revision in the near future. The B volumes, however, are intended to be revised after every decennial Census. They were last revised in 1914 and the question of revising them after the 1921 Census is at present under the consideration of Government.

REALIZATION OF ARREARS OF LAND REVENUE IN ALIENATED VILLAGES.

* Sardar V. N. MUTALIK (Deccan Sardars and Inamdars) :

(*a*) * * * *

(*b*) * * * *

(*c*) Will Government be pleased now at least to state in a tabular form a comparative statement, giving the dues of land revenue and arrears, at the end of 1921 July and the coercive measures, notices, fines, forfeitures and other measures adopted for the realization of the arrears in alienated villages and in Government villages, during the last official year ?

The Honourable Sir IBRAHIM RAHIMTOOLA : A statement† giving the information asked for in clause (*c*) is laid on the Council table. Clauses (*a*) and (*b*) of the question were answered at the February sessions.

OPENING IN SERVICE FOR CANDIDATES FROM ARISTOCRACY.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars) : Will Government be pleased to state if there were and at present are any orders for giving any posts in the higher grades of services, in different services, to qualified candidates from the aristocratic classes, sardars and inamdars, to provide opening in service for the educated young men from these classes ?

The Honourable Sir IBRAHIM RAHIMTOOLA : No posts have been or are at present reserved for qualified and educated young men of the classes mentioned.

Sardar V. N. MUTALIK : I want to ask whether any posts are given.

The Honourable Sir IBRAHIM RAHIMTOOLA : All qualified candidates have got a chance to get in.

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* This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

† *Vide* Appendix Z.

### Jail Discipline, etc., in Visapur Jail.

Dr. S. S. BATLIWALA on behalf of Mr. A. N. SURVE (Bombay City, North): (*a*) Will Government be pleased to place on the table extracts from the history tickets relating to the weights, punishment for breach of jail discipline, the nature and the amount of work taken from the two prisoners Bhojraj Ajvani and Werhomal Gurdasani, lately released from the Visapur Jail ?

(*b*) Will Government be pleased to state why Visapur Jail is particularly selected for accommodating the political prisoners ?

(*c*) Will Government be pleased to give dimensions of the tank to which prisoners from the Visapur Jail are marched for bathing parade and state the depth of the water in the tank in the month of May ?

(*d*) Are prisoners in the Visapur Jail chained to one another during the night time ?

(*e*) Is each prisoner in that jail supplied with a separate blanket for himself ?

The Honourable Mr. M. H. W. HAYWARD : (*a*) The desired extracts* are laid on the table.

(*b*) It is not so selected.

(*c*) The "tank" is many miles long and at the site of bathing above the embankment across the river many hundred yards broad. The prisoners are not however allowed to go out to a greater depth than 3 feet though the depth approximated 30 feet in the deepest part last May. The "tank" is better known as the Hanga River.

(*d*) The prisoners are not chained to one another at night time, but a long picketting chain with ample "Play" is passed through the rings at the loose ends of the chains of their fetters.

(*e*) Each prisoner is supplied with a separate blanket.

### Indian Convicts in Visapur Jail.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will Government be pleased to state how many Indian convicts are there in Visapur Jail ?

(*b*) Who are the members of the committee of visitors to that jail ?

(*c*) What is the exact arrangement for prisoners to answer the calls of nature and to wash bodies after Chaki work ?

(*d*) Is it not a fact that while Messrs. Bhojraj and Werhomal were in that jail, two or three prisoners were made to sit on a basin at a time to answer calls of nature in the presence of others awaiting their turn ?

The Honourable Mr. M. H. W. HAYWARD: (*a*) There are reported at present to be 1,462 prisoners.

(*b*) The official visitors are given in revised rule 334 (*b*), (*c*) and (*f*) of the Jail Manual published on the 18th July 1922 in the *Bombay Government Gazette*. The three non-official visitors appointed under revised rule 335 (*b*) of the Jail Manual are :—

1. Rao Bahadur G. K. Chitale, B.A., LL.B., M.L.C., Ahmednagar.
2. Mr. P. Y. Mirikar, B.A., LL.B., Ahmednagar.
3. Mr. Chandmal Uttamchand of Shrigonda.

This revised rule has similarly been published in the *Bombay Government Gazette*.

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* *Vide* Appendix AA.

(*c*) Latrine trenches are provided for prisoners working extra-murally and latrine pans in plenty within a properly walled enclosure for intra-mural prisoners. Regular washing places with an ample supply of fresh water are provided just outside the enclosure of the prison.

(*d*) It was contrary to orders and wholly unnecessary if any such instance ever occurred. The prisoners awaiting their turn sit outside the latrine wall.

TRANSFER OF MESSRS. BHOJRAJ AND WERHOMAL TO VISAPUR JAIL.

Mr. G. B. TRIVEDI (Thana District): (*a*) What were Government's reasons for sending Messrs. Bhojraj and Werhomal to Visapur Jail from Sukkur (Sind)?

(*b*) Was there no accommodation for them in Sind Jails?

(*c*) Were they encased in double fetters on admission to that jail?

(*d*) What was the expense of conveying them to Visapur Jail?

The Honourable Mr. M. H. W. HAYWARD: (*a*) The overcrowding of the Sukkur Prison.

(*b*) There was overcrowding also in the other prisons in Sind.

(*c*) They were secured on admission by double chain fetters according to the usual rule and subsequently by single chain fetters.

(*d*) The third class railway fare is about Rs. 23-12-0 from Sukkur to Visapur. The expense can approximately be estimated therefrom by the hononrable member.

EXPENDITURE OF BUDGET GRANT.

Mr. G. B. TRIVEDI (Thana District): Will Government be pleased to give details of the way in which the budget grant 22A (*b*) of Rs. 80,000 referred to on page 78 of the final issue of the Budget for 1922-23 has so far been spent?

The Honourable Sir IBRAHIM RAHIMTOOLA: The detailed figures of the Budget Estimates will be found on page 81 of the final issue of the Civil Budget Estimates. Details of the expenditure in the course of the year cannot be furnished.

DISCONTENT AMONG INDIAN GAZETTED OFFICERS.

Mr. G. B. TRIVEDI (Thana District): (*a*) Are Government aware that there is great discontent amongst Indian gazetted officers and subordinates of Government over the leave restrictions placed by Government?

(*b*) Will Government be pleased to lay on the Council table a copy of orders passed in the matter?

(*c*) How many Indian gazetted officers and subordinates in the Revenue Department have been refused leave on account of this order?

(*d*) And how many Indian gazetted officers in the same department have been refused leave during the last three years previous to this order?

(*e*) Have any officers of the Imperial services been refused leave during the last two years?

The Honourable Sir. IBRAHIM RAHIMTOOLA: (*a*) No representations have been received by Government.

(*b*) Copies * of the orders are placed on the Council table.

(*c*), (*d*) and (*e*) Enquiries will be made.

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**Vide* Appendix BB.

COMPENSATION OF LOSS DUE TO TRANSFER OF LAND.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to say how the loss of revenue by transferring land to Development Department as well as to race course and other institutions has been compensated and credited to the provincial revenue ?

The Honourable Sir IBRAHIM RAHIMTOOLA : The market value of land transferred to the Development Department is debited to it.

The land on which the Bombay race course is situated vests in the Bombay Improvement Trust, from whom the Western India Turf Club holds it on lease for a term of 30 years.

The land at Poona used as the race course is cantonment land under the control of the cantonment authorities. It is not known on what conditions the land was granted by the cantonment authorities to the Western India Turf Club.

Government are not aware what other institutions the honourable member is thinking of. If he will specify them, an answer will be given in due course.

FREE STUDENTS IN GOVERNMENT HIGH SCHOOL AND NEW ENGLISH SCHOOL, SATARA.

*Mr. P. N. ADHAV (Satara District): (1) Will Government be pleased to state the number of students admitted free in the Government High School and the aided New English School in the current year from—

(*a*) Brahmins,
(*b*) Marathas,
(*c*) Other castes ?

(2) Will Government be pleased to state the number of scholars in the above schools from—

(*a*) Brahmins,
(*b*) Marathas,
(*c*) Other castes ?

The Honourable Dr. R. P. PARANJPYE: A statement† giving the information is laid on the table.

INTRODUCTION OF RECORD OF RIGHTS.

Rao Bahadur R. R. KALE (Satara District): (*a*) In how many unsurveyed inam villages the Record of Rights has been introduced in the Central and Southern Divisions ?

(*b*) Will Government be pleased to place on the Council table a statement of such villages in the Deccan districts ?

(*c*) Under what provisions in the Land Revenue Code this system has now been introduced ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) and (*b*) Information has been called for.

(*c*) Under section 135-A of the Land Revenue Code Government have power to introduce the Record of Rights into an alienated village.

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

† *Vide* Appendix CC.

QUALIFICATIONS OF ASSISTANT TAXING MASTER.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will the Government be pleased to state the legal and educational qualifications of the present Assistant Taxing Master in the Bombay High Court ?

(*b*) Who were his predecessors in the past during the last ten years and what were their qualifications ?

The Honourable Mr. M.H.W. HAYWARD : (*a*) and (*b*) The present Assistant Taxing Master, Mr. E. Gellett, was educated at private schools in London and was more than 17 years Costs Clerk to Messrs. Rising and Ravenscraft, Solicitors of London. He came out in February 1909 in the same capacity to Messrs. Crawford Brown and Company, Solictors, Bombay. He remained with them until he was appointed with effect from 1st April 1916 Assistant Taxing Master, High Court, Bombay.

The post of Assistant Taxing Master was held by Mr. K. F. Modi, B.A., LL.B., from 1st April 1905 to 31st March 1916. The following gentlemen acted from time to time for Mr. Modi between 1913 and 31st March 1916 :—

Mr. N. D. Gharda, B.A., LL.B., from the 6th February 1913 to 19th March 1913.

Mr. H. H. Wadia, B.A. (Bom.), M.A. (Cantab.), Bar.-at-Law, from 31st May 1913 to 30th August 1913.

Mr. N. D. Gharda, B.A., LL.B., from 22nd September 1913 to 23rd November 1913.

Mr. H. H. Wadia, B.A. (Bom.), M.A. (Cantab.), Bar.-at-Law, from 16th June to 15th December 1914, from 3rd December 1915 to 31st March 1916.

NEGLECT TO INSPECT BANDHARAS AND NATURAL DRAINAGES.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Governmnet be pleased to say whether the Agricultural Department has collected any data to show how many acres of good land has been washed away on account of neglecting the inspection of bandharas and natural drainages and to suggest means to check this loss in Ratnagiri district ?

The Honourable Dr. R. P. PARANJPYE: The Agricultural Department has not collected any data on the subject.

## DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST.

(*Debate on the resolution* re *grievances of the tenants of khots resumed.*)

Mr. G. C. BHATE (Kolaba District): Sir, I am very sorry I cannot see my way to support the resolution which has been put forward by my honourable friend from Bombay. I come from the Kolaba district, and I know something about the khoti tenants in the district. Personally I am not a khot, nor do I hold any khoti lands in the district. Still, I am practising in the district for the last twenty years and I know the grievances of the khots as well as the tenants for so many years. The point that is raised by the honourable mover is that an enquiry should be made because the tenants have so many grievances and the khots are responsible for those grievances. Now, as regards the arguments put forward by the honourable mover, the first thing to be noted is that the khot's demands were fixed so far back as 1862. It is not true to say that the khots can demand anything from the tenants either in the Ratnagiri district or in the Kolaba district. The first Act on this point is the Survey

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Settlement Act of 1865, but before that Act was passed in 1862 or 1863 survey settlement was introduced both in the Ratnagiri district and in the Kolaba district.

The Honourable the PRESIDENT: May I interrupt the honourable member? Is it relevant to the question in the resolution? The resolution relates to grievances. Grievances may arise out of existing laws: in that case the question will be whether the laws ought to be modified in order to redress the grievances. We are concerned now with the question of the necessity of an enquiry into the grievances whether arising from existing legislation or otherwise. So, I do not think it is quite proper to go into the history of the Acts.

Mr. G. C. BHATE: It was suggested by the honourable mover that one of the grievances of the tenants was that the khots can demand anything from the tenants.

The Honourable the PRESIDENT: With reference to that particular point, the honourable member was right in pointing out that the demands were fixed by legislation. But as the honourable member put it first it looked as if he was saying that the demands were fixed by legislation and so there could be no grievance. That is out of order. I think the honourable member understands why I interrupted.

Mr. G. C. BHATE: Yes, Sir. I am answering the argument put forward that the khots can demand anything from the tenants. The demands are fixed by legislation. The first attempt to fix the demands was made in 1862 when survey settlement was introduced in Ratnagiri and Kolaba districts. As a result of that fixation the khots filed suits against the Government and those suits were going on till 1880 when the Khoti Settlement Act was passed and there was a compromise between the Ratnagiri khots and the Government. By that Act the khot's demands were fixed under the statute. As regards Kolaba district, though the preamble of the Act says that it may be introduced in the Kolaba district, that Act was not introduced into that district. Therefore, it is not correct to say that the khoti tenants of the Kolaba district were affected by the compromise that was arrived at in the Khoti Settlement Act. The khots of the Kolaba district are governed by the annual *kabulayats* that they pass to Government. Their demands were fixed by the Survey Settlement Act of 1865, section 38, which says:

"It shall be competent to such officer with the sanction of the Governor in Council to fix the demands on the tenants."

So, the Government took power to fix those demands, but in the revision of survey settlement, however, no demands were actually fixed as regards khoti tenants in the Kolaba district. After the revision Survey Settlement was introduced in 1902-03 down to 1914, no attempt was made to fix the demands of the khots. But in 1914-15 Government introduced a new form of kabulayat by which they fixed the demands. Some of the terms of that kabulayat were not liked by the khots and so there are at present 86 suits filed against Government, because the khots say that there are certain terms in that kabulayat which go against their ancient rights.

Then, as regards the other point raised by my honourable friend in his opening speech, that the khots take *Veth*—that is the proper word for what he suggests by the expression forced labour—the khots are not allowed to take any such thing. This is specially mentioned in the original form of kabulayat which has been in force from 1862 onwards, and even in the present kabulayat

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it is stated that the khots cannot take anything other than the survey assessment *plus* the local cess and the *phaida* that will be fixed by the Collector in the kabulayat. So, they cannot take anything from the tenants even by way of *Veth*.

And the third point of the honourable mover was that the khoti *kuls* were all annual tenants and so the khots could do anything as regards their holdings. But that position is not correct. Even in the Ratnagiri and Kolaba districts there are certain tenants who are called customary tenants. As regards those customary tenants the position is that so long as they are paying *phaida* to the khot they cannot be evicted. As regards the other tenants, their position is like the position of tenants of *dhara* land, and as regards them no complaints on the ground of eviction, etc., can be made. But the statement that all the cultivators of khoti lands can be evicted at will by the khots is not a correct proposition at all. The customary tenants cannot be evicted. As regards the khoti *khasgi* lands, the tenants can be evicted just as the tenants of the *dhara* land can be evicted.

Then, as regards the disputes in the Kolaba district between landlords and tenants, the honourable mover stated that the dispute is due to the demands of the khots and the grievances of the tenants on account of those demands. But that too is not the correct position, because the dispute that is going on in Pen does not, as far as my information goes, relate to khoti villages. Many of the lands that have been kept fallow by thet enants are *khar* lands. The real dispute is not between the khots and the tenants but between landlords and tenants who are all annual tenants. The dispute is also as to what produce should be given to the landlord, and what should be left to the tenants as cultivator. The tenants urge that they should get 11 maunds in one khandi, while the landlords say that the tenants should take only 9 maunds. "*Akra nav*" and "*Nav akra*" are the terms used in this dispute, that is whether the landlord should get 11 maunds and the tenants 9 maunds, or *vice versa*. That is the chief point of dispute between the landlords and the tenants. I now hear that they have come to certain terms, and the dispute will be amicably settled. Therefore, there are no real grievances of the tenants, so to say. Of course, the larger proposition regarding tenancy in general is altogether a different question, and we know that some attempts have been made to grapple with it in other provinces in India; especially in the United Provinces, where the Tenancy Act has been passed. But I think that the circumstances in this part of the country, *e.g.*, Ratnagiri and Kolaba, are not such as to call for any such legislation. With these remarks, I conclude. I am very sorry that I cannot support the resolution.

Mr. L. J. MOUNTFORD: Mr. President, I wish to congratulate the honourable member from Bombay for the speech which he has made which shows his sympathy for the ryots, whom he considers to be severely oppressed by the khoti system. It is a mark of the progress of this House when we find that the interests of the cultivating classes are urged with so much moderation and restraint.

Before we can understand the position of the ryots and their grievances, as described by the honourable mover, it is necessary that we should understand on what system those grievances are based, so as to see whether any committee would be of any use at all in removing such grievances. The difficulty that I have at the outset is that he does not distinguish between the grievances of the permanent tenants, whose tenure is laid down by law, and the temporary

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tenants, that is tenants at will. He has also not distinguished between the Kolaba khots and the Ratnagiri khots. The khots of Ratnagiri have rights and privileges, and also liabilities, conferred upon them by the Act of 1880, whereas the Kolaba khots are not governed by any such law.

The Honourable the PRESIDENT: What is the year of the Act?

Mr. L. J. MOUNTFORD: 1880.

The Honourable the PRESIDENT: Has not that been modified?

Mr. L. J. MOUNTFORD: It is Act I of 1880, amended by Acts III of 1904 and VIII of 1912.

Before we can really go into the matter of the grievances, therefore, there are many customs which must be most carefully enquired into and we must consider the many settlements and many enactments made during the course of three-quarters of a century to settle the relations between the khots and their tenants, and I think it would be essential that a statement of the position be made in particular and not in general terms. It would take too long to trace the history of khoti tennure: the rights of permanent occupants have been dealt with under the Khoti Settlement Act. Therefore, as regards the permanent tenants, whose rights are secured by law in Ratnagiri, I would say no more. As regards the Kolaba khots, Government is already enquiring into the grievances and is trying its best to ameliorate the condition of the tenants. We have heard the honourable member opposite refer to certain suits that have been filed. Those suits with which I have been concerned for several years turn upon the point whether or not the Government has a right to exact a kabulayat from the khot, and that kabulayat is for all purposes the charter of the tenant, for under the kabulayat the rights of the tenant and liabilities of the khot are clearly defined. As far as those suits have gone up to the present, the decision has been in favour of Government. I say no more about them as the matter may go to higher courts, but what appears to be clearly established is that Government have secured the decision that they have a right to take a kabulayat from the khot, which will safeguard the interests of the tenants. The only other grievances, therefore, which can come up are those of tenants at will, and I think, all over the country, in fact all over the world, the position of tenants at will is extremely difficult. Year by year, owing to the press of circumstances, the tenants desire to pay less rent, and, for the very same reason, the landlords are unable to accept it. These are matters that will only be adjusted by the law of supply and demand. We have had certain indications of late to show that tenants are not inclined any longer to submit to rents which may be considered onerous, and for a considerable period, two years ago, 5,000 acres of land in Pen remained uncultivated, owing to disputes between the tenants and their landlords. We also had similar difficulties between the tenants and the landlords in Satara district, Belgaum, and several other districts, and it looks very much as if the tenants were getting into a condition when they can look after themselves. If, therefore, we appoint a committee to enquire into these grievances which have been so very gravely stated with a great deal of emphasis and a great deal of honest conviction, we should be stirring up great agrarian difficulties. All grievances of any importance which really affect the ryots must be dealt with, as they are now being dealt with by Government, with all serious and careful consideration. To appoint a committee would stir up all sorts of agrarian strikes which at present are to be deprecated. What I propose,

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therefore, is that the honourable mover should ask permission to withdraw his resolution after hearing what has been done by the Government to help the ryots and to wait until the inquiry which my honourable friend the Registrar of Co-operative Societies tells me is being made into the economic conditions of cultivators of the Kolaba and Ratnagiri districts by the Co-operative Institute. Such inquiry is entirely a non-official inquiry and it will be extremely interesting, and the results of that inquiry may be awaited before steps are taken by this House.

Mr. S. K. BOLE (Bombay City, North): Sir, in view of the information given and suggestion made by the honourable member the Commissioner, Southern Division, I beg leave to withdraw the resolution.

Resolution by leave withdrawn.

Mr. A. N. SURVE (Bombay City, North): Sir, the resolution which I beg to move reads as follows:

"This Council recommends to Government to appoint a committee consisting of officials and non-officials, with a majority of the latter, to inquire into the grievances of the prisoners in the Visapur Jail, and to suggest ways and means to remove them."

Sir, since I gave notice of this resolution Government have appointed a committee and it has practically absolved me from establishing my case. The only points wherein we differ are that I wish to have a majority of non-officials in the committee, whereas Government have appointed two officials and only one non-official, that is to say the official element in the committee preponderates. It is also to be regretted that the committee is going to make a selection of the witnesses whom it is going to examine. It has asked those persons who want to give evidence to send in their written statements. They will read these written statements and select whom to examine. I think such a course is not desirable. Let all witnesses who wish to give evidence be examined by the committee.

The Honourable Mr. M. H. W. HAYWARD: May I explain, Sir, that anybody can give evidence before the committee? There is no restriction whatever.

Mr. A. N. SURVE: That does not solve my difficulty, Sir, about the non-official majority. I want the jail administration to be examined not from the point of view of administrative convenience.

The Honourable Mr. M. H. W. HAYWARD: May I explain the position to the honourable member? We have appointed a normal committee to make inquiries, that is, the Commissioner, the District Magistrate and the honourable member of the district. That is a normal committee, I think, and that committee ought to meet with the approval of the House.

Mr. A. N. SURVE: My submission is that I want that there should be a non-official majority in this committee; otherwise I would not have moved the resolution at all. The members who are appointed by Government on the committee command my respect, but I wish that the non-official element in the committee should be rather stronger, because in that case they will look at the matter not from the point of view of administrative convenience. That is the only point of difference, Sir.

In moving the resolution, therefore, I will just suggest that it is stated as one of the grievances that only six or seven persons are employed to clean about 3,000 pounds of grain while the normal quantity to be cleaned as laid down by the Jail Manual is nearly 200 pounds per man and if one man is asked

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to clean 500 pounds of grain that would necessarily be very hard. So this fact and also some other extraneous matters which have come out must be inquired into not only from the jail administration point of view, but from the point of view of the general public.

The Honourable the PRESIDENT: May I put it to the honourable member whether it is necessary for him to go into the question of all these grievances, in view of the fact that a committee has been appointed? His only grievance as regards the committee is that it ought to consist of a majority of non-officials. That is the only relevant question now for debate. Government having already appointed a committee it is immaterial to discuss the question whether there are any and what grievances to be inquired into.

The Honourable Mr. M. H. W. HAYWARD: The desirability of enquiring into the grievances is admitted.

The Honourable the PRESIDENT: Yes. Mr. Surve, if the grievances are admitted, there is no room for a committee at all. A committee is to enquire into the alleged grievances. The desirability of an enquiry is admitted. Therefore, the whole point is reduced to the question of a majority of non-official members. So please address yourself to that point.

Mr. A. N. SURVE: As the grievances are admitted, I shall not touch them at all, but.....

The Honourable the PRESIDENT: I do not want the honourable member to be under a misapprehension. No one admits the grievances, either from the Government bench or any one else here. That is a question which is *sub judice* before the committee.

Mr. A. N. SURVE: My resolution recommends the desirability of increasing the non-official element of the committee.

The Honourable the PRESIDENT: I thought you had already dealt with that. Very well, you can continue.

Mr. A. N. SURVE: The desirability of increasing the non-official element is this, that there are certain instruments used in that prison which make it necessary that the question should be investigated not by officials but by non-officials. That is my point. Take, for instance, the bell chain. Now, the bell chain is an instrument which ties down prisoners to one another and to the ground. The result of that is, the prisoners are not able to move about in the night without disturbing one another. If one prisoner.....

The Honourable Mr. M. H. W. HAYWARD: The honourable member is not correct, Sir. The honourable member has not seen the inside of a jail and has not seen a bell chain. I have personally seen it in use during the hours of the night. I do not desire to interfere, but I do think that it would be really better if all these questions were left over as questions for the committee to enquire into. It is practically a matter which is *sub judice*. I can, however, say this that I have visited the jail myself during all hours of the night and I could say a good deal about the matter to the House. But I do not want to say anything at present, because I do not want to prejudice the enquiry to be made by the committee. I recommend that these questions be left to the committee by the honourable members of this House.

Mr. A. N. SURVE: Having heard this explanation, it makes me desire all the more that the non-official element on this committee should be stronger. With this statement I leave my resolution in the hands of the Council.

Mr. IBRAHIM S. HAJI (Bombay City): Mr. President, in supporting this resolution of my honourable friend from Bombay, I beg to move an amendment if you, Sir, will allow me to move it. The amendment is:

"Leave out the words 'with a majority of the latter' and insert instead the words 'in equal number'."

The honourable mover of the resolution says: "a committee consisting of officials and non-officials with a majority of the latter". I want to make it: "a committee consisting of officials and non-officials in equal number".

Dr. S. S. BATLIWALA: Who should be the chairman?

Mr. IBRAHIM S. HAJI: I am coming to that. Therefore, Sir, as, according to the present constitution of the committee, we have got two officials and one non-official, I propose an increase of one non-official. It is not that this House or the honourable mover of the resolution has got a grievance about the appointment of the non-official member on that committee, but it would be, I think, in the interests of the public and also for the good of the Government that there should be an equal number of officials and non-officials, and out of those four members, let them select their own chairman. With these words, Sir, I ask the Council to accept the amendment.

The Honourable the PRESIDENT: Now, the amendment moved and question proposed that the committee should consist of officials and non-officials in equal number, is for discussion.

Dr. S. S. BATLIWALA (Bombay City, North): Can we not discuss both the resolution and the amendment, Sir? That will save time.

The Honourable the PRESIDENT: Yes: very well.

Dr. S. S. BATLIWALA: Sir, I am not in agreement with what has fallen from the honourable member from Bombay representing Mahomedans, because the object with which he comes to the rescue of the proposer of the resolution will not be carried out for the very simple reason that, if there are an equal number of officials and non-officials, and if the chairman as usual is a Government member, everything that is desired by Government will be passed by Government by a majority, because the chairman has got a casting vote. Therefore, if the object of my honourable friend who has spoken before me is to increase the non-official number, then I am afraid his object will not be carried out from the point of view which I have explained before this House.

Sir, there is no doubt that in the mind of the public there is a feeling that, when investigation is made for a particular subject, as for instance for enquiring into the grievances of the public or of prisoners, it is always essential that an enquiry should be made on the subject by an independent committee. The Government officials have to advance reasons against the alleged grievances. Therefore, it is not fair to have a committee where the Government votes predominate. If they did predominate, their conclusions would be looked upon by the public as biassed. I do not doubt, Sir, that the official members appointed on the committee will do justice to the question, but, after all, Sir, there is that feeling permeating the minds of the public that, whenever any enquiry is made on any subject, it should be an independent enquiry by those who are not concerned with the affair. Here, I daresay the Commissioner and the District Magistrate are not concerned directly with the affair, but all the same they are representatives of the Government. Therefore, their voice or views, could not carry that weight which is required in deciding the question. They are at the bar of the committee and they have to give reasons and explanations, and the committee has to accept or reject the same and make its report.

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I would therefore appeal to Government, though I have no doubt that everything is fair and square in that jail, to have a non-official majority on this question. They may select their own non-official members, we shall have nothing to say; perhaps they may select non-official members with a particular leaning towards them, but all the same, when it is the non-official members who form the majority, then the public will be more satisfied and say there is nothing underhand in this business and justice is being done.

With these words, I again appeal to the Honourable the Home Member to say that they will appoint two extra non-official members, and I also request my honourable friend on my left to withdraw his proposition when that proposal is acceded to.

The Honourable Mr. M. H. W. HAYWARD: Mr. President, I can sympathise with the desire of my honourable friend from Bombay for more non-officials on the committee, but I cannot agree with him that the officials appointed are not independent. The Commissioner, Central Division, has nothing whatever to do with the administration of the prison. He will be the chairman, his business will be simply to invite complaints, to make enquiries, to record evidence and assist the committee to come to a conclusion. The District Magistrate similarly has nothing whatever to do directly with the administration of the prison. These two will have the valuable assistance of the honourable member from the district. I put it to the House that there could hardly be a more satisfactory committee than the one appointed—that has already been appointed. I feel that it ought really to satisfy the House. I might add that the fact that it has been considered desi able to appoint a committee ought in itself to prove that no final decision or opinion has been formed by Government. We appoint a committee because we want to find out whether there is any real substance in any of these rumours—most of them vague and indefinite—whether there is any real substance in them requiring improvement or modification in the administration of the Visapur prison. I submit that this is a normal committee, that would be normally appointed for this kind of business, that it would be inconvenient to appoint a larger committee. It would not be so efficacious and it would be more expensive. We should have to pay the expenses of every extra member. I hope that the honourable member will therefore accept the committee which has already been appointed. The report or findings will have to be published and the conclusions come to by Government will eventually be open for full discussion at a later stage before the House. I believe the honourable member will leave the committee as it is and trust the members and await their report which will eventually be considered by Government and be available for the opinion of the House.

Mr. A. N. SURVE (Bombay City, North): Mr. President, I beg leave to withdraw the resolution.

Mr. IBRAHIM S. HAJI (Bombay City): Mr. President, I beg leave to withdraw my amendment.

Amendment by leave withdrawn.

Resolution by leave withdrawn.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Mr. President, I beg to move that

"This Council recommends to Government that the practice of touring officers hiring carts and buying provisions through officers and servants of Government be discontinued."

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It will perhaps seem that as the practice in question concerns villagers having carts and petty grocers selling provisions in villages and small towns, the subject is not of sufficient importance to engage the attention of this Council. But I would point out that the class of persons affected is numerous and spread over a wide area and that the hardship caused to them is severe and is keenly felt.

The employment of carts for touring officers takes place through revenue and police officers and become an impressment. Now, impressment is allowed by law only in emergencies during the march of troops. Bombay Regulation XXII of 1827 provides for impressment in such cases. The law does not allow impressment in any other case. The impressment of carts for touring civil officers is therefore illegal, and it cannot be denied that the continued practice of an illegality by a large number of officers as a uniform measure has the effect of lowering the high standard of the administration. But, apart from this, the hardship caused to the owners of carts for the purpose is intolerable. The seizure disregards all personal considerations of the cart-owner. He may have a sick child at home, he may have to attend a wedding, he may have to carry grain or fodder to a market town, but he is compelled to set aside all these engagements and to go out with his cart for several miles to carry the kit of a touring officer. The cart-owner may have gone with his cart to a taluka town or a district town with the programme of returning home the next day, and he is impressed in the town and forced to take his cart in a different direction, his people at home not knowing where he has gone and when he is returning.

Further, orders for impressment give petty officials many opportunities for making exactions. And the officers who require carts are many and their tours are frequent. They are officers of the Revenue Department, the Police Department, the Excise Department, the Educational Department, and several other departments.

It has been said and it will be said that these hardships are inevitably incidental to the maintenance of the system of tours by district officers which is so essential for the efficiency of administration and that payment of hire compensates for the hardship caused. My reply is that no administrative reasons ought to perpetuate illegalities and intolerable hardships to people and that the price is too heavy for efficiency. If Government or touring officers find it very costly to maintain carts of their own, the officers ought to be able to hire carts themselves without using the agency or pressure of officers of the Revenue and Police Departments for the purpose. If without the agency and pressure of these officers agriculturists and traders can get carts on hire to take goods to market towns and non-official individuals can get carts on hire for private purposes such as taking marriage parties, carrying pilgrimage parties, etc., there is no reason why Government officers should not be able to get carts similarly on hire. If it is the harsh and indifferent treatment which they give to cart-owners which makes it impossible for them to get carts on hire on a voluntary system, the abandonment of the system of impressment will be a distinct advantage. The treatment given to these poor cart owners will be more humane and more just.

As to the argument that payment of hire compensates cart-owners for the hardship, I may say that the payment is only for the use of the conveyance and is no compensation at all for the hardship. Being made through Government servants anxious to secure the good wishes of high officers, the payment often fails to be liberal or regular.

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Again, it will be said that this impressment is an ancient system traditional from the pre-British days and that, therefore, there ought to be no objection to it. I would say in reply that, if a practice is bad and oppressive, its being old is no justification for its continuance. Impressment is akin to slavery and serfdom and it ought not to be practised as a system to be ordinarily followed.

As to touring officers buying provisions through officers and servants of Government, the arguments advanced by me already against a system of compulsion apply to this practice also. I may observe that the system of compelling grocers to sell provisions is so abused that the lower subordinates of officers while on tour buy provisions in large quantities far in excess of their requirements on tour so as to store provisions at a very low cost. The wrongful loss caused to grocers becomes so great that grocers in villages and small towns have been obliged to institute a system of subscribing from their pockets to a fund to be given as compensation to the particular grocer who by turns is saddled by them with the duty of supplying provisions to touring officers. The visit of a touring officer thus fails to invite any welcome or rouse any enthusiasm. As another instance I may cite the fact that in February 1922 I asked questions in this Council whether a complaint about seizure of sheep by certain peons alleged to be made under orders of superior officers was true. A reply was given to us a year after and the reply simply placed on the table an order passed by a district officer subsequent to my questions prescribing how sheep should be taken and paid for. But the reply did not say whether or not the complaint was true.

In conclusion, I might be allowed to say that the grievance is sorely felt in villages and small towns, and forms a fertile ground for the growth of discontent readily availed of by those trying to create bitter hostility towards Government. More than the need for changes required in constitutional matters, the injustice and hardship of such practices go home to the heart of all country people who are easily, though wrongly, persuaded to accept the situation as a proof of the untruth of the claim of Government to be just and beneficent. The practice is illegal and opposed to principles of good government, and I would request the House to join with me in asking Government to put a stop to it.

Mr. G. B. TRIVEDI (Thana District): Sir, I rise to support this resolution. The very fact that this resolution has been moved by my honourable friend, who is known for his moderation, speaks a volume for this resolution. This is a grievance of a very long standing, and people are long complaining, and therefore it is high time that Government should rectify it. I realise also the hardship of touring officers, and the amendment which I propose to move will meet the objection that may be raised by Government. My amendment reads thus:

"That these words be added at the end of the resolution: 'and if it cannot be discontinued, the rates for the hire of carts and prices of provisions to be paid by touring officers be fixed by contract'."

What I mean is that, if Government find it difficult to discontinue the practice, they should not arbitrarily fix the rates of hire and the price of provisions, because this practice has been going on for a long time. The prices were settled several years ago and those prices are still continuing, although the prices since then have risen enormously. Therefore, they must not leave it to the sweet will of the officers to settle the rates of hire and the cost of

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provisions, but they should settle these costs by contracts as they do for several other things. They must invite tenders from the grocers in villages every six months or every year, and settle the prices, so that there might be no room for heart-burning or any difficulty. With these remarks I move my amendment.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, before this resolution and amendment are discussed, I wish to point out that the matter is a very important one, and it should be discussed in a fuller House. The matter affects the whole Presidency. With great respect I beg to submit that the consideration of the question might be adjourned.

Mr. M. A. HAVELIVALA: I agree with the view expressed by Khan Bahadur A. M. Dalal.

The Honourable the PRESIDENT: It is all very easy to make these proposals. If the resolution is not considered to-day, it cannot be taken up at the next meeting in December, because there will be no non-official day allotted for non-official business. Then, the resolution having been once moved, it cannot be adjourned to the next session, because with this session it dies, and it cannot be moved for one year more.

One honourable member last night remarked that non-official members are not present in large numbers. If non-official members are not present in large numbers, it is an insult to the House to say that there should be a fuller House for the discussion of the resolution, and therefore the consideration of it should be adjourned. I deprecate such remarks coming either from Government members or from non-official members for non-official business. If before the business is over non-official members in small or larger number want to go away and prefer some other business to their business in the Council, that is their lookout and the lookout of the constituencies which have sent them here. I decline to take notice of any such motion. Even if the Standing Orders allow it, I will not entertain any such proposal for a single moment. I do not like to be a party to any honourable member's desire to shirk his duty.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, the question that the honourable mover has raised has been under consideration for a considerable time, and the honourable non-official members have repeatedly drawn the attention of Government both by means of interpellations and resolutions. Government are fully aware of the hardships which are entailed under the present system, and they have made all possible enquiries into the ways and means to remove those hardships. The Commissioners were asked to consider the question and to submit a joint report. That report has now been received and is at present under the consideration of Government. But the question is full of difficulties. Honourable members will recognise that it is essential in the interests of efficiency of administration that officers in superior positions should tour over the districts. In order to be able to do so, they would require certain facilities, without which it would hardly be possible for them to carry out the supervision which is necessary in the interests of administration. Therefore the issue is complicated by these two factors. One is that supervision by means of touring is necessary, and the second is that in carrying out these tours considerable amount of hardship is at present entailed in obtaining supplies of carts and provisions. The Commissioners have made certain recommendations and suggestions; for instance, they have recommended amongst other

[Sir Ibrahim Rahimtoola]

things for the maintenance of carts departmentally; they have also recommended that loans might be given for the purchase of carts and bullocks in order that they may be available for touring officers. There are also other suggestions, all of which are at present under the consideration of Government. If the recommendations of the Commissioners are accepted, considerable extra cost will be involved. Government have therefore not yet issued any orders on the subject. But I can assure honourable members that Government are fully aware of the hardships entailed and that they are at present considering how best to relieve them. That being the case at present I trust that the honourable mover will see his way to withdraw the resolution.

The Honourable the PRESIDENT: Does the mover of the amendment wish to withdraw it?

Mr. G. B. TRIVEDI: Yes.

Amendment by leave withdrawn.

Rao Bahadur R. M. NILKANTH: I also ask permission to withdraw my resolution.

Resolution by leave withdrawn.

The Honourable the PRESIDENT: The next item, resolution by Rao Bahadur Chitale, has been disallowed by His Excellency upon the ground that the matter is *sub judice* as suits are pending in the courts.

The next resolution in the name of Mr. Jadhav is covered by the decision of the House arrived at on the resolution of Mr. Kambli.

Mr. B. V. JADHAV: Will you allow me to move the second resolution, Sir?

The Honourable Sir IBRAHIM RAHIMTOOLA: May I say one word, Sir, as regards the honourable member being allowed to move the resolution standing second in his name? Under the procedure which you, Sir, read out and which I think forms part of our Standing Orders, the ballot determines the order in which each resolution can be moved. It will create much difficulty if the order so determined is not adhered to and the next resolution is allowed to be moved, even when the first is withdrawn.

The Honourable the PRESIDENT: The rule is:

"Provided that if a resolution to which priority is given under Rule 1 is disallowed the next resolution standing in the member's name may be moved in its place."

The Honourable Sir IBRAHIM RAHIMTOOLA: The resolution is not disallowed. Only the honourable member has not moved it. It is at your discretion whether to allow it or not.

The Honourable the PRESIDENT: The words are "may be moved". Wherever discretion is given to the President, the language is "The President may allow." These words are not here. The words are: "the next resolution standing in the member's name *may be moved*." The discretion is the honourable member's in whose name the resolution on paper stands. So the honourable member nominated for Satara is at liberty to move.

Mr. B. V. JADHAV: Sir, I beg to move for the consideration of the House:

"That for the purpose of reducing the excessively high proportion of the advanced communities among the trained vernacular teachers in the Central and Southern Divisions, this Council recommends to Government to pass an order to give, during the next ten years, preference

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to the duly qualified candidates belonging to the non-Brahmin backward communities including the Marathas and the depressed classes at the time of admitting students to the various classes of the training institutions for vernacular teachers in the two Divisions."

Sir, I want to limit the operation of this resolution to the Central and Southern Divisions. In the Central Division there is a training college for vernacular Marathi teachers in Poona and there are training classes in various district centres. There is also a training college for Kanarese teachers at Dharwar and there are training classes in differnt centres. Up to this time, Sir, the majority of students admitted to these institutions belonged to the Brahmin community and therefore the number of Brahmin trained teachers in all the schools of the Central and Southern Divisions is out of all proportion to the numerical strength of that community. It was found last year that the number of Kanarese trained teachers produced was out of all proportion to the demands of the services, and therefore orders have been passed that for some yeras to come there should be a smaller number of admissions to the training college at Dharwar. This House, will, therefore, see how points were stretched in favour of more and more admissions for the advanced communities and how injustice has in this way been done in other ways too. I therefore propose, in the interest of the services, that there should be a due admixture of castes in the services, especially in the case of vernacular teachers, and therefore some provision ought to be made for an increased proportion of candidates from the non-Brahmin backward communities to be admitted to the training institutions in the Central and Southern Divisions. I therefore request this House to pass this resolution, so that Government will be pleased to issue orders that, for the next ten years only—I limit the operation of this resolution, I do not want it for ever, but only for ten years—preference should be given to candidates of the non-Brahmin backward communities including the Marathas and the depressed classes, in the matter of admissions to the training colleges. I beg to suggest on behalf of the depressed classes that as many of them as will be available should be taken first of all, and then the claims of the other backward communities might be considered after that. The condition of the depressed classes is very bad, and in their interest all their available candidates should be admitted first of all, and the remaining vacancies might be filled from other communities. I ask for this concession for the next ten years only and not for a longer period, because I think that within the short period of ten years, matters might settle down, and the disproportion that is now felt will not be so felt ten years hence. The adoption of this resolution will not come in the way of the claims of other communities, because this resolution asks Government to give preference to candidates only in the matter of admissions to the training colleges. It does not mar the prospects of the teachers who are already in service. It in no way comes in their way, and therefore no objection can be raised that it will cause hardship or that it will cause injustice to any members of the educational cadre. I need not add anything further, because I hope this House recognises the injustice that has been done to the backward communities, and I am confident that this resolution will be acceptable to the Council.

Mr. G. B. TRIVEDI (Thana District): Mr. President, sympathising as I do, to a certain extent, with the demands of the backward classes for certain special concessions, I have tried my best to see whether there is anything in this resolution which, by a stretch of my imagination or of my sympathies, I can support. To my mind, this resolution is most objectionable from the public

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standpoint. In the first place, what does it ask ? It says that in the Central and Southern Divisions, the training of teachers shall be confined to only one class and to one class only. That means that the training colleges, financed from public revenues, will be reserved for certain backward classes only. This is different from giving special concessions to qualified people of the backward classes, as we had in the case of the demand for giving them three posts of probationers for mamlatdars' posts. That was a different thing. Here, the resolution asks us that we shall agree to debar all other classes from a public institution financed from public revenues of the Presidency—not only of these two Divisions but also of Gujarat and Sind—revenues which go to maintain certain institutions in these two Divisions. The resolution is for debarring all except the backward classes, because it does not lay down any proportion. It says that preference shall be given to the backward classes, that is, if the student of a backward class comes, he should be admitted because he belongs to the backward class. The resolution does not say whether those students should be duly qualified or not.

Mr. B. V. JADHAV : It is there.

Mr. G. B. TRIVEDI : Yes—I beg to correct myself. So, that, it does not ask for a certain percentage, because Government have lately recognised that certain percentages shall be reserved for backward people in the matter of admissions to certain training institutions. But here, the resolution asks us that we shall agree to give preferential treatment in the matter of admission to the backward classes. This means that, if in a college there are 60 vacancies, and 60 candidates from the backward classes apply for admission, preference should be given to them, so that all others are debarred. This is not asking special treatment for a qualified person from the backward classes, but debarring all other classes from the benefit of a public institution maintained for public purposes out of public revenues. This is too much to be expected from even the sympathisers of the backward classes, and I think that, when my honourable friend the mover of this resolution views it from that point of view, he himself will see that he cannot ask this House to support him in a resolution of this kind. With these words, I beg to oppose the resolution.

Mr. S. P. LIGADE (Sholapur District) (Adressed the House in Marathi) : Mr President, in speaking on the usefulness of this resolution, I wish to refer to the necessity which was admitted of having a due proportion of non-Brahmins in the Revenue Department. In the Educational Department also the same is the case. If a non-Brahmin candidate goes to a Brahmin officer, and asks for admission, there are always two answers ready for him. If the candidate is passed, he is told that he has no experience and sent away. If an experienced man comes, he is told that there is no vacancy.

Let me tell this Council, Sir, that during the last ten years although a large number of candidates of the backward communities have passed their vernacular sixth standard, hardly one or two candidates have been admitted in the training colleges. This, Sir, is the state of passed candidates.

The Honourable the PRESIDENT : (In Marathi) : You must speak what is relevant to the resolution. This resolution has nothing to do with passed candidates.

Mr. S. P. LIGADE : I only wanted to show that in the Sholapur training college even the third or fourth year passed candidates of the backward com-

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munities do not get admission while first year Brahmin candidates get admission very easily. This sort of partiality ought to be remedied, and the resolution moved by my honourable friend the honourable the nominated member from Satara, if passed, will remedy all these grievances of the backward communities. With these remarks I heartily support the resolution.

Rao Bahadur G. K. CHITALE (Ahmdnagar District): I think it my duty, Sir, to oppose this resolution. In the first place, it appears to be most mischievous. It cuts at the root of the growth of primary education and it does not take any notice of the consideration which this Council has been showing to the classes for whom this resolution is now moved. The House knows how recruitment in the trained vernacular teachers' college is made. The House will remember that the usual procedure is that those students who pass vernacular school final examination, namely, the 7th standard, with a certain number of marks are admitted to these colleges in order of merit. For encouraging and giving preferential treatment to the backward classes and others, the forward classes are admitted in order of merit while the students of the backward classes are recruited at a much lower percentage of marks, that is, they are admitted even if they get 10 per cent. less marks than the students of the forward classes. For instance, if a boy from the forward class gets 50 marks, and another boy from the backward classes gets 40 marks, then that boy who gets 40 marks is admitted in preference to the boy of the forward class who gets 50 marks. So the first selection is usually much according to merits. If this Government likes to favour one class, I hope that this House will not be a party to it, and if it likes that the whole system of educational examinations should be done away with, then let it do it. If they like that all places should be filled in from the bottom, let them do it. But there is no injustice absolutely in a public examination whereby recruitment is made according to merits. But a certain amount of preferential treatment is given to the backward classes by allowing them a less number of percentage of marks. What more is needed? But what is intended to be done is this, that they say for the next 10 years particular forward classes should be barred altogether, Will this House be a party to this partiality? I think, not. This resolution does not require any more condemnation than that. I hope this House will throw out the resolution.

Mr. F. B. P. LORY: Mr. President, I rise in a somewhat difficult position, Sir, because I am not prepared with facts and figures by means of which to convince the honourable mover of this resolution and this House that the purpose of the resolution is already being carried out. The honourable member for Ahmednagar district has just told this House that preference is given to members of the backward community, and if I had any idea that this resolution was likely to come up to-day I could have proved to this House by facts and figures that members of the backward community are receiving and have received preferential treatment in the matter of admission to the training institutions. Not only, Sir, are we anxious to encourage the backward communities by recruiting teachers from those communities, but we are also anxious to appoint teachers of the agricultural classes, because we recognize that teachers of the agricultural classes are better suited to teach children of the agricultural classes. It is for that reason in particular that we have given preferential treatment to the backward community in this matter. I hope, therefore, that in view of what I have said, the honourable member will consent to withdraw this resolution.

Rao Saheb D. P. DESAI (Kaira District): Sir, if I had my own way, I would have all the teachers Brahmins by caste. It is their profession from times immemorial and I would like that they should rather be encouraged to stick to their profession especially as in this country the people have always looked upon the Brahmins as their lawful teachers. Again, we should not be careless in the selection of persons who are to train our young men's minds, that is, the children's minds and so the person who is considered the best, who has noble and pious traditions behind him, and who by nature is supposed to be a religious man and a man of high character should be employed in the task of training a young child's mind. In the same manner I would just request my honourable colleague, the honourable member for Satara district, that he should not look upon the task or duty of teaching as a regular business of a Maratha or a Kshatriya. His duty lies elsewhere. So long as they try to get Government jobs, jobs other than in the teachers' profession, I would like to have these services in our Presidency given to the Marathas and I would not grudge even if all of these services were given to them. But the moment they trespass, or the moment they go beyond their legitimate sphere, I would rather oppose it and wish that it would be not to the interests of their children to have either a Maratha or any one else from the backward classes as a teacher for their children.

There may be complaints about Brahmins not doing their work as teachers properly or there may be some complaints that Brahmins do not look to the interests of the children of the Marathas and so are not devoted to their duty. In that case, I think this Council is quite open to listen to these complaints. If there is some prejudice and if there is some weakness on the part of these Brahmins in giving proper training to other communities, then the complaints should be made in this Council and the faults if any will be at once remedied. But to jump to the conclusion that the Brahmins should not have the appointments of teachers is to my mind a very suicidal proposal. It will not only harm the Marathas themselves, but other communities also. We do require at least a fair sprinkling of the Brahmin teachers.....

Mr. B. V. JADHAV: A fair sprinkling.

Rao Saheb D. P. DESAI: Yes, at least a fair sprinkling. But, if the Brahmins were to monopolise the whole of the teaching line, I should of course welcome that proposal.

Mr. B. V. JADHAV: Welcome them in Gujarat, please.

Rao Saheb D. P. DESAI: Of course, I would welcome them in Gujarat, if they were to be sent there. I would not consider it below the dignity of the non-Brahmins to have Brahmin teachers in any case. Looking from another standpoint, Sir, in this country we worship and bow down to intelligence we admire bravery or courage; and we are indifferent to what I may cal; commercialism. But what we like least of all, in fact what we hate, is servicel A Maratha should never, so incessantly try for a thing by which he would be looked upon as having wished for something which an Indian hates. If the Marathas desire to be honoured and at the same time desire to be respected by others, they should try to stand on their own legs, on their own independence and on their own courage, and that will help them on like anything. But, to try for a sort of slavery is to my mind something quite foreign to the true spirit of a Maratha. With these remarks, I resume my seat.

Rao Saheb HARILAL D. DESAI (Ahmedabad City): Sir, I wish to enter an emphatic protest against resolutions of this character being entertained in this House. Backward communities are entitled to claim facilities for the purpose of education and to ask for reasonable arrangements of that kind, but, when measures are proposed which are likely to work injustice to some and favour to others, such proposals ought to be discountenanced at once. In this case, if this resolution were adopted, for ten years all other communities would be prohibited from entering the educational line or the training colleges. That certainly is a resolution which I cannot but describe as too cheeky to be entertained.

Dr. S. S. BATLIWALA: I beg to move the closure, Sir.

The Honourable the PRESIDENT: Well, let me allow some representatives of the backward communities to speak.

Mr. P. N. ADHAV (Satara District): Mr. President, I am afraid some of the honourable members that have just spoken before me have misunderstood or rather tried to misrepresent the actual state of things. We do not want to have the monopoly of the entire service of the Educational Department to ourselves, but what we want is to have a proportionally just and fair admixture of all classes. At present, there is one dominant class, one class predominant, in the educational service. If you look at the cadre of the school teachers, you will find that more than 80 per cent. of the posts are occupied by the advanced classes, and in order that we may get to a proper stage, there must be some time given to us to make up the necessary proportion. Take, for instance, the question of crops. If you have got a certain crop of pure species and you want to have a mixed crop, you have to eliminate a certain number of the individuals of the pure crop and admit, transplant, for a certain time the desired species so that we get a fair proportion of the mixed crop. On these lines my honourable friend from Satara, the mover of this resolution, has put forward this resolution for the consideration of this House.

Mr. D. D. GHOLAP (Addressed the House in Marathi): Mr. President, I am very sorry that some of my honourable friends have misunderstood the object of the resolution which is now before the House. One honourable member, from Thana, maintained that, as these training colleges and institutions are supported exclusively from the public revenues, it is not fair that the benefit of such institutions should go to one particular class, to the exlusion of other communities or classes. But, Sir, if we consider the subject from a proper point of view, we shall find that the greatest portion of these public revenues comes from the poorest and the backward communites, and, that being so, it does not appear to me in any way unfair that the backward communities should have preference over others, namely, the advanced communities. As the greatest part of the revenue which comes into the public exchequer, and on which the whole administration of the Government is carried on, comes from the pockets of the poor and backward communities, it is but fair that they should share in the benefit coming out of that revenue to a larger extent than the advanced communities. I think it is their right.

Another point is that some honourable members appear to hold that each particular community should stick to its own profession, and that that system has been followed hitherto in this country. That means the Brahmins should stick to their professsion, the Marathas to theirs and the other communities to their old professions. But I am afraid they forget that the duty of a Brahmin is not to do the service of others on payment. It is his duty, as described by

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a well-known poet, to live on *bhiksha* and give the benefit of his learning to the people free of charge. But, what do we see at present ? Brahmins have accepted service under Government, and the same Brahmins are opposing Government in many things. They say the education which is at present given is useless and that Government service is nothing but slavery. If that is so, I really do not understand why they should care at all for this sort of education and this sort of service under Government. (At this stage two or three honourable members interrupted the speaker in a whisper).

The Honourable the PRESIDENT: Order, order. If any honourable member wants to reply he should wait for his turn but there should be no interruption now.

Mr. D. D. GHOLAP : Some people from among the advanced communities do not hesitate to call the Government service slavery. If it is really slavery I would ask my honourable friends to let the backward communities have that experience of slavery and become wiser by experience. The advanced communities can have no complaint or grievance in that case. The Brahmin's duty is not to serve in that manner and if the Brahmin community will not step out and make room for non-Brahmins, the backward classes and depressed classes will never come up to the Brhamin's standard.

Mr. K. B. NIMBALKAR (Nasik District) : Mr. President, I rise to support the resolution moved by the honourable member nominated for the backward classes, Mr. Jadhav. Whatever might have been the state of things in the past, at present when the feeling between Brahmins and non-Brahmins is so acute in the country, it can safely be said that if the compulsory primary education, which is shortly going to be introduced in the country, is to be made successful, there should be a majority of non-Brahmins amongst the teachers. A question was asked by me and both the question and the answer are before the House. In that question I had asked to furnish the number of students from the depressed classes in the Nasik High School in the time of Rao Bahadur Deshmukh—a non-Brahmin headmaster—and the number of students of the same class during the period of Mr. Bhide, the present head-master—a Brahmin.

Mr. F. B. P. LORY : On a point of order, Sir, how is the question of the Nasik High School relevant to the resolution before the House ?

The Honourable Dr. R. P. PARANJPYE : Is the Honourable member under the impression that Rao Bahadur Deshmukh was a non-Brahmin and from the backward classes ?

Mr. K. B. NIMBALKAR : He was not from the backward classes, but he was a non-Brahmin.

The Honourable the PRESIDENT : I am waiting to see how the honourable member is going to develop his argument in relation to his resolution.

Mr. K. B. NIMBALKAR : From the figures given in the answer it will be seen that the number of students of the depressed classes during Rao Bahadur Deshmukh's time was much in excess of the number during Mr. Bhide's tenure at the present moment .....

The Honourable the PRESIDENT : What has the high school of Nasik to do with the question of students in the training colleges ?

Mr. K. B. NIMBALKAR: I am going to prove that we want more teachers from the non-Brahmin classes because if the Brahmin teachers are there, the backward communities are not properly treated by them, and to prove this I have given the example of the Nasik high school. From the figures given in the reply it will be quite clear that even in an institution like a high school and even in the time of an educated man holding a post of a head master, depressed class students are not fairly treated. I will quote another instance of a village named Mhatarachiwadi in Dindori taluka. This is a small village with a population of one thousand. In this village there was one Brahmin teacher in whose time the school was going to be closed on account of scarcity of children coming to school. The villagers asked for a non-Brahmin teacher and anybody will be surprised to hear that after a non-Brahmin teacher was sent there, the village of one thousand population has now got 126 students going to the same school which is a full primary school and amongst these 126 students, there are 26 girls from the Marathas and backward communities. This is the result because the Brahmin teacher was removed from the place and a non-Brahmin teacher was given to the village. From this it will be clear that, if education is to be spread in the country in the manner it is expected, the number of teachers from the non-Brahmin communities must be increased. I do not say that all Brahmin teachers are partila—there may be some with honest purpose—but I say when the feeling is so acute, it is impossible even for such Brahmin teachers to induce the illiterate villagers to send their children in as good a way as teachers from the backward communities can do, and under these circumstances, when we have got a measure before us by which all the backward communities are likely to be benefited, I think arrangements must be made to see that the number of the teachers from the backward communities is increased. This can only be done by passing the resolution moved by my honourable friend from Satara. With these words I support the resolution and resume my seat.

Mr. B. V. JADHAV: Mr. President, I am surprised to see the speeches that are made against the resolution I have had the misfortune to move. I use the word "misfortune" intentionally, becuase I find no other way to get justice for the communities for whom I stand. Those communities, Sir, are trodden under feet for hundreds of years and only under the British rule the doors of education have been thrown open to them. But the janitors appointed there are the very same persons who have been instrumental in keeping us down so long. My honourable friend from Kaira says that the Brahmins are the fittest persons to be schoolmasters everywhere. The Brahmins must be very good Brahmins in his province, Sir, and I am told—I cannot vouch for this—that the majority of them are cooks, are water carriers, and supply water to the schools and offices in Bombay. They are called "Maharajas" no doubt and they are very highly respected and revered because they do not come in the way of the advancement of the other communities. But the Brahmin, Sir, in the Deccan is quite a different being and my honourable friend from Kaira will have in next birth to be born in the Deccan to know what the Deccani Brahmin really means. My honourable friend from Thana raised the objection that these training colleges are maintained by Government from public revenues and therefore each and every class of community has got a right to have instruction there. I think, Sir, there is a great deal of misconception in what he said. The training colleges are maintained by Government to provide teachers, to provide trained teachers, for the educational service. Each and every person has not got any right of admission there. Nobody has got any vested interest

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there. The interest of the service requires that there should be an admixture of castes. And if the Brahmins have been monopolising all the places or appointments—my honourable friend here tells me that there are about 80 per cent. Brahmins in the trained ranks in the service—I think it will be perfectly just for us to ask for a substantial share of those places in the schools at this time.

(At this stage the Honourable the President withdrew and the Deputy President occupied the Chair).

There is no injustice to anybody; we are not shutting out anybody.

Then, Sir, much has been made of the concession that is given to us—that 10 per cent. lower efficiency is asked from us. I say, in my resolution, that I want that concession for duly qualified candidates. I never asked for any undue advantages. I never asked that unqualified men should be admitted into the colleges. I again repeat that duly qualified candidates from backward communities should be admitted in larger numbers, and that cannot be done unless preference is given to them. The Educational Department is trying its best to meet the demands of the backward classes, and I have been observing that within the last two or three years 50 per cent. are admitted into the training colleges from the backward community. (Honourable Members: Hear, hear). Hear, hear, please what I say. 75 per cent. of the trained teachers are already recruited from the advanced communities, and the 50 per cent. places in the training colleges are now practically reserved for them. I do not know how many centuries we shall take by this process to have a due admixture of castes. Though the present rules of the Educational Department do not say it expressly, the remaining 50 per cent. will practically be reserved for Brahmins, and it will be the close preserve of that community. That is a great injustice in view of the fact.....

Rao Bahadur G. K. CHITALE: Is there any percentage, Sir, reserved for Brahmins?

(At this stage the Honourable the President resumed the Chair).

Mr. B. V. JADHAV: 50 per cent. are to be admitted into the training classes from the backward community, which means the other 50 per cent. are reserved for Brahmins. That is implied injustice and not express. That is the practical result of that rule. Against that, I raise strong objections. I think the House will see the injustice done to us and will recognise that for achieving the due admixture of castes in proportion to the population something extraordinary must be done. Brahmins are not more than 5 or 6 per cent. of the population but they hold 70 or 80 per cent. of the posts, and this proportion ought to be righted. Unless for ten years—I have not asked for more—duly qualified men from the non-Brahmin community are admitted into training colleges and training classes, due admixture of castes cannot be attained. My honourable friend, the elected member from Ahmednagar, was very indignant at this resolution. What is his proposition? He says for the growth of primary education as many Brahmin teachers as we can lay our hands upon should be employed.

Rao Bahadur G. K. CHITALE: I never said so, Sir.

Mr. B. V. JADHAV: But that is what I understand my honourable friend to say.

Rao Bahadur G. K. CHITALE: The honourable member must not understand that.

Mr. B. V. JADHAV : But he said, Sir, that the growth of primary education will be prejudiced by the acceptance of this resolution. I fail to understand how that prejudice will arise. It is many, many years since vernacular schools were opened. The Peshwa Government was overthrown a hundred years ago, and the education of the masses was taken in hand. But what is the result ? Not even 4 per cent. of the masses are literate. Although the doors of education are open to all,the door-keepers are so very vigilant that they do not allow the undesirables from their point of view to enter them, or manage to keep them out. That is the reason why I want more of these doors should be in the hands of non-Brahmins.

I shall give one instance. We know from history the Rajah of Satara and his brother were not allowed to be taught the three R's by their humble servants the Peshwas, and the result was that their mother used to wake them up at dead of night and to teach them the alphabet. Such was the solicitude taken for their masters by the Brahmin Peshwas who were their humble and faithful servants. Their caste men have not given up their tradition, and we now see deplorable results in the ranks of the backward communities that not more than 4 per cent. of them are literate. According to my honourable friend from Ahmednagar, there may be no injustice absolutely. But according to our humble opinion, there is a good deal of injustice, and I pray for the indulgence of this House to right that injustice and I ask for nothing more.

My honourable friend from Kaira benevolently asked us to restrict ourselves to our duties. Does he mean of those of pattawallas and menial servants who are recruited from the backward community ? And our friends want that our people should be in that condition for ever ! (Honourable Members : No, no.) You must rise to the occasion, and you must give your helping hand to elevate us.

Rao Saheb D. P. DESAI : I never said that.....

The Honourable the PRESIDENT : The honourable member for Kaira should address the Chair. Is he rising on a point of order or to offer a personal explanation.

Rao Saheb D. P. DESAI : A personal explanation, Sir. Even if the whole services are taken away by Marathas, I have no objection.

The Honourable the PRESIDENT : That is no personal explanation. The honourable member should not interrupt in this way.

Mr. B. V. JADHAV : In the opinion of our so-called friends our duty is to join the army, to do the work of the police, to furnish the ranks of the pattawallas, and not to aspire for higher things. We are proud to enlist ourselves in the army and in the days of need my community did not lag behind (Honourable Members : Hear, hear). They went under the flag and they have maintained their reputation as hard fighters. But we ought to be given the liberty to fight in the Councils also. We are not properly taught even the vernacular languages. If we are not literate even in the vernacular how can we come up higher and fight the battles of our communities in this learned assembly ? A few of our members are here, and we owe that to the Government of India Act and reservation of seats, and I owe my seat to nomination and I am always described as a nominated member.

The Honourable the PRESIDENT : How is that relevant to the question ?

Mr. B. V. JADHAV : It has been very difficult for us to enter the Councils.

The Honourable the PRESIDENT : For want of education ?

Mr. B. V. JADHAV : Yes, for want of education. Before the Reform Act no non-Brahmin ever dared to stand as a candidate in the Central and Southern Divisions.

The Honourable the PRESIDENT : Now, I think the honourable member is transgressing the limits of relevancy. He had better confine himself to the terms of the resolution.

Mr. B. V. JADHAV : I shall give up that point, Sir.

The Honourable the PRESIDENT : I do not want to come in the way of the honourable member. If he will put his point in a relevant manner, if the honourable member will say that at present the number of non-Brahmin representatives is so small that any resolution that they bring has no chance of being passed by the Council, and that if they were educated by the help of trained teachers, there would be more of their number coming in as representatives, then I won't come in the way of the honourable member. But he does not put it in that way.

Mr. B. V. JADHAV : Sir, I need not say anything further. The number of representatives of the backward communities is very small indeed, and it is due to the fact that our vast electorate has not been awakened to their rights and privileges, and that is on account of the want of education among them, and education cannot make any rapid progress among them unless, as pointed out by my honourable colleague from Nasik, the teachers' posts are thrown open to members of the backward communities. However efficient a Brahmin teacher may be, the real earnestness and desire to teach non-Brahmin pupils is generally absent in him, and therefore we pray to this House that the number of non-Brahmin teachers ought to be increased, and to train them properly they must be admitted into the training institutions in larger proportions, and as they have been excluded so long, I have to propose that for the next ten years preference should be given to the duly qualified non-Brahmin candidates in the matter of admission to the training institutions. I have also made a special request.....

The Honourable the PRESIDENT : Order, order. It is some minutes since the honourable member's fifteen minutes transpired.

Mr. B. V. JADHAV : I ask for one minute more, Sir.

The Honourable the PRESIDENT : The honourable member has had five minutes more.

Mr. B. V. JADHAV : I want only one minute more, Sir. I would request this House that when selecting candidates from backward communities preference should be given to candidates from the depressed classes.

The Honourable Dr. R. P. PARANJPYE : Mr. President, I should think that a continual reiteration of questions like this does not always add to the harmony and good working of this House. Government have repeatedly shown their solicitude for the interests of the backward classes. In fact, I have often been charged, and Government also have been charged, by other classes that their legitimate interests and rights have always been sacrificed. But, as has been well said on a similar resolution the other day, political necessity may require a certain amount of sacrifice of this kind, and therefore people have reconciled themselves to a good deal of preferential treatment being given to the backward classes. But the present resolution, Sir, asks not merely for

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preferential treatment for non-Brahmin backward communities in comparison to the other classes, but desires the Government to pass an order for the absolute blocking of people from the advanced classes in favour of the backward classes for the next ten years. I put it to the Council whether a resolution like this should meet with their approval.

My honourable friend has admitted that in certain divisions 50 per cent. of the seats have been reserved for the backward classes, but he appears therefrom to have taken it as established that the remaining 50 per cent. have been reserved for the advanced classes. It means nothing of the sort. It means that 50 per cent. will be filled by open competition and the remaining 50 per cent. will be reserved, irrespective of any competition, to the backward classes. That certainly does not mean that the number of non-Brahmins would be restricted to 50 per cent. unless he means to imply that non-Brahmins will never be able to get a single place by open competition. I myself have felt that when they reach the higher grades they are certainly able to compete. I have had experience in my own classes: when they come to the college I do not find any material difference between them and the pupils of the advanced classes. I certainly have felt that they can come in to some extent by open competition. I do not feel that my non-Brahmin friends will charge me with being partial to Brahmins. In the institution with which I was connected, backward classes were given special facilities. And if no non-Brahmin teachers were there, it was not because that that institution was confined to Brahmins, but it was because no non-Brahmins ever offered to be teachers. But that is only a digression. What I would point out is that if we have a portion of the seats open to open competition and a certain number of seats—as in this case 50 per cent.—reserved for non-Brahmins, I do not think there is much to complain in that matter. A few years ago in the training college here in Poona, for instance, there was a rule that the Brahmin candidates that were admitted must have secured a percentage of 45, but in the case of non-Brahmin and backward class candidates no percentage was required at all. That rule led to a great deal of dissatisfaction among the Brahmins, but still it was adhered to. I only wish to show that rules like this have been made in order to give the non-Brahmin and backward classes a great deal of facility in qualifying themselves for the profession of teaching. But when my honourable friend comes forward to say that no Brahmin whatsoever shall be taken for the next ten years if there are qualified non-Brahmin candidates available, I do not think the Council will agree with him.

He also made a great point as regards the admission of the pupils of the depressed classes, and he left it to the members of the Council to feel that his community would be very glad to afford every facility to the depressed classes. I shall only give one instance about the way in which the depressed classes have been treated, not by the Brahmins but by the other non-Brahmin classes. Last year a teacher from a school not far away from Poona—within ten miles from Poona—came to me and mentioned this fact. The school is in a village within ten miles from Poona, and that village did not contain a single Brahmin family, and all the pupils in that school were from the non-Brahmin classes. There was also a depressed class school in that locality, but that depressed class school taught only up to the third standard, and there were a few pupils from that depressed class school who after passing the third standard wanted to join the other school in the higher standard. What happened? When the

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Brahmin teacher was willing to allow these depressed class pupils to join that school which, remember, consisted entirely of pupils from the backward classes, the guardians of the pupils came to the teacher and said that if a Mahar was admitted to the school, they would all in a body withdraw the other students.

An HONOURABLE MEMBER : Perhaps, they were put up to do so by the Brahmin teacher.

The Honourable the PRESIDENT : Order, order. No member sitting should interrupt like that.

The Honourable Dr. R. P. PARANJPYE : I have only put forward this example to show that this concession would not in all cases meet with the wishes of the non-Brahmin classes themselves. When a teacher from the depressed classes was put to teach, not in a depressed class school, but in an ordinary school, the guardians of the pupils in that school did not like the depressed class teacher to be there. I would only refer my honourable friend who represents the depressed classes to the files of the newspaper *Mookanayak* of Bombay, with which he is perfectly familiar, in which a large number of complaints are made about the treatment of the depressed classes by the non-Brahmin backward classes. I would only point out by this reference that the question is beset with a very great number of difficulties. Government have laid down their policy perfectly clearly that every facility would be given to the backward classes, and preferential treatment will certainly be given to them. But, I believe that Government will not be able to accept a resolution of this nature. It must be remembered that the minimum qualification for entrance to the training college is the passing of the vernacular final examination, but every student who passes that examination will not necessarily pass through all the more advanced courses of the training college. The minimum qualification may be there, but you certainly want a little higher grounding and higher qualification than the merely minimum qualification required. Take, for instance, the case of the results of the vernacular final examination. There may be students who have passed with 80 per cent. marks at one end, and at the other end there may be students who have passed with 30 per cent. marks. Is the honourable member going to tell us that the efficiency of the training colleges will be maintained if we refuse to take even the topmost man who gets 80 per cent. marks, and we admit only pupils with 30 per cent. marks ? Of course, we can certainly allow a fair proportion to come in, but the efficiency of the institution will naturally degenerate, if there is no student of a higher calibre in that institution. Everybody who has had any experience in teaching knows that the efficiency of any class deteriorates, if at least the topmost boys are not the best that can be got. If the teaching is to be on a level suitable to the capacities of the very low, and if all the students are of the lowest standard, the efficiency of teaching is bound to depeciate to a very great extent. Therefore, I believe the Council will agree that it is a very proper policy to admit a certain number by open competition, to show the others who are admitted by preferential treatment what the best kind of students would be, and to give them some incentive to raise themselves further. I do not think, Sir, that my honourable friend's argument about the admission of the depressed classes in the Nasik high school should have much weight. He appeared to think.....

The Honourable the PRESIDENT : I think the Honourable Minister will be well advised in not taking notice of that, because it is irrelevant. When

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the honourable member began to refer to it, I allowed him to speak, but I found out that it was irrelevant and then I stopped it ; so that, that does not require a reply.

The Honourable Dr. R. P. PARANJPYE : I will reply in one sentence. This year, the number of depressed class pupils in that school has been greater than at any time in the history of that school.

Then, the honourable mover appeared to make a rhetorical appeal to the House that if only 50 per cent. of the students from the backward classes are admitted, how many centuries it will take before they come in due proportion ! I think during the course of the next 30 years the number of the backward class students will be at least 50 per cent., and the proportion would in fact be very much greater, because a certain number would come in by open competition also. I do not think the opinion of the Council is, as it appears to be the opinion of a certain number of members of this House, that no Brahmins should in future go in for the teaching profession at all, so that I think the practice of Government is fairly reasonable.

I would make just one more point. In future, the recruitment of teachers would be left practically entirely in the hands of local bodies. These local bodies, the elections to which are going to be based on a very wide and low franchise, would be mainly in the hands of the non-Brahmin backward classes themselves. The local bodies would be entirely under the control of the classes whom my honourable friend represents. The recruitment of teachers will therefore be practically in their own hands, and therefore the grievance will not at all be felt in the future. I hope, therefore, that the House will not accept this resolution, seeing that the policy of Government is quite satisfactory, as it has been laid down so far.

Question put. House divided. Ayes 11 ; Noes 33. Motion lost.

*Division No. 7.*

**Ayes.**

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|---|---|
| Adhav, Mr. P. N. | Mohomed Salahuddin K., Mr. |
| Bole, Mr. S. K. | Nimbalkar, Mr. K. B. |
| Cooper, Khan Bahadur D. B. | Salgar, Mr. R. G. |
| Gholap, Mr. D. D. | Surve, Mr. A. N. |
| Jadhav, Mr. B. V. | Vichare, Rao Bahadur D. A. |
| Ligade, Mr. S. P. | |

*Tellers for the Ayes :* Mr. K. B. Nimbalkar *and* Mr. P. N. Adhav.

**Noes.**

| | |
|---|---|
| Batliwala, Dr. S. S. | Lalbhai Ambaram, Mr. |
| Bhate, Mr. G. C. | Lawrence, The Hon'ble Mr. H. S. |
| Chitale, Rao Bahadur G. K. | Lory, Mr. F. B. P. |
| Crerar, Mr. J. | Mackie, Mr. A. W. W. |
| Dadachanji, Dr. K. E. | Mead, Mr. P. J. |
| Dalal, Sardar Khan Bahadur Adarji M. | Mountford, Mr. L. J. |
| Dalal, Mr. D. B. | Mutalik, Sardar V. N. |
| Desai, Rao Saheb Harilal D. | Nilkanth, Rao Bahadur R. M. |
| Desai, Rao Saheb Dadubhai P. | Painter, Mr. H. L. |
| Dubhashe, Mr. Shankar Balkrishna | Paranjpye, The Hon'ble Dr. R. P. |
| Fernandes, Major C. | Pradhan, Mr. M. W. |
| Garud, Rao Bahadur S. D. | Proes, Mr. E. M. |
| Griffith, Mr. F. C. | Rahimtoola, The Hon'ble Sir Ibrahim |
| Gulamhusen, Mr. Sultanali Salemanji | Rothfeld, Mr. O. |
| Jennings, Major-General W. E. | Thomas, Mr. G. A. |
| Kale, Rao Bahadur R. R. | Trivedi, Mr. G. B. |
| Ker, Mr. J. C. | |

*Tellers for the Noes :* Mr. L. J. Mountford *and* Mr. O. Rothfeld.

*After Recess.*

The Honourable the PRESIDENT: Order, order. Dr. S. S. Batliwala.

Dr. S. S. BATLIWALA (Bombay City, North): Mr. President, I beg to move:

"That this Council recommends to His Excellency the Governor in Council that all proposals for increasing the assessment of land revenue brought up before the Governor in Council be subject in future to a discussion of the same by the Legislative Council and the recommendations of the Council as a result of the discussions to be the guiding factor in the revision of the assessment of the land revenue."

Major-General W. E. JENNINGS: May I rise to a point of order, Sir? There is no quorum.

(A count was then taken.)

The Honourable the PRESIDENT: I am informed and find that there is a quorum.

Dr. S. S. BATLIWALA: Mr. President: I have ventured to move this resolution with a great deal of diffidence, as I am aware that there are many honourable members in this House who could do better justice to this resolution than myself. I am also diffident because the resolution gives.....

An HONOURABLE MEMBER: Sir, there is no quorum.

The Honourable the PRESIDENT: The rule is and must always be that if a count has been once called for and taken and the Chair finds as a result, rightly or wrongly, that there is quorum and declares accordingly there should be no demand for a fresh count on the ground of want of quorum until some time has elapsed since the previous count was taken.

Mr. M. A. HAVELIVALA: Even if there are ten members present?

The Honourable the PRESIDENT: Once a count has been taken and it is found that there is a quorum, after that for some time no count can be called for. I am going to enforce that rule as it is enforced in the House of Commons. Otherwise I may be called to take a count every five minutes as if I was sitting here to count heads. As once observed by the Speaker in the House of Commons in enforcing the rule I have stated and am going to follow, if it were not the rule, the Speaker would be every now and then required to take a count and look after no other duty.

Dr. S. S. BATLIWALA: Sir, I venture, as I have said, to bring this resolution with a great amount of diffidence, knowing, as I very well do, that there are other members of this Council who are here and who are much cleverer than myself to do justice to the resolution. At the same time, another reason for diffidence in bringing forward this resolution is this, that it comes at the fag end of the session when a larger number of non-official members have left this House, and my resolution, however good it might be, might share the fate which one would not desire, unless and until I have the support of the Government benches. However, Sir, I shall make an humble effort to say what I have to say on the subject, and, if I fall short of the expectation of the honourable members of this House, I beg to be excused for the same. Sir, I am prompted to bring this resolution before this honourable Council for several reasons. The first and foremost is that ever since the formation of the reformed Council no such resolution has been brought before this Council although one might have expected, after the views expressed in the recommendations of the Joint Select Committee of Parliament in paragraph 11 of their report, which says:

"Settlements have to be considered by the Legislative Councils."

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It is, therefore, in view of this recommendation of the Joint Select Committee, necessary that the reformed Council should take part in settling the revision of land revenue assessment. My second reason is that the land revenue assessment is a question of taxation, and just as all the taxations are discussed and voted upon by the Legislative Council during the budget time, so also, land revenue assessment being a kind of taxation, it ought to fall within the purview of this Council to settle the same. The third reason that I have got to bring to the notice of this House is that, whenever land revenue questions have been settled by Government after a thorough enquiry as regards the increase, the nature of the increase, and how it can be levied, etc., we find, Sir, from the records of the land revenue settlements, that those officers who were deputed to enquire into these questions differed amongst themselves as regards the conclusions they arrived at. Then, Sir, if that is so, as I will later on prove, by giving instances where they differed, it is necessary to have a third party to judge and decide upon the complex points raised by the officers. Sir, the method adopted by Government when revision of land revenue assessment is carried out is something like this: First Government has a survey made of the village or taluka. After the survey is made, a settlement officer is appointed by them to go into all the questions relating to the levy of the assessment, and report in detail on all the conditions which go either in favour of enhancement or reduction in the assessment. I do not think I need go into all those details, as for instance, high prices, indebtedness of the agriculturists, increased cost of living, prosperity, rainfall, price of land and several others. Then, the settlement officer draws his own conclusion and he sends his report to the Collector. The Collector in his turn, with his remarks, submits the same to the Commissioner of Land Records, who in turn, after investigation, passes the same with his remarks on to the Commissioner of the division, who finally submits the papers with his remarks to the Government. The Government in their wisdom, as always happens, support the view which is in favour of increasing the assessment, because thereby they get more revenue. They then pass a resolution based on the conclusions arrived at by their officers and on an average increase the assessment. Government, after passsing the resolution send it on to the particular village or taluka which is affected by it and give a certain time by notification to those villagers or taluka people to protest against the increased assessment. Invariably, Sir, you find that, whether the taluka or the village people do protest or not, they are quite dissatisfied with the Government's decision to increase the assessment. They groan under the pressure put upon them and they always complain against it. When the complaint is lodged, Government reconsiders the question, and.....

The Honourable the PRESIDENT: Will the honourable member allow me to interrupt him a little?

Dr. S. S. BATLIWALA: Yes, certainly.

The Honourable the PRESIDENT: With reference to the ruling I gave a little while ago when my attention was called by the Honourable the Surgeon General about the quorum, I find on reference to a ruling of the Speaker in the House of Commons that when once a count has been taken and it is found that a quorum is present, the Speaker has held that for half an hour again he cannot allow another count. Of course, the words used in that particular case were "half an hour" but the ruling of the Speaker was in these words.

"We have had a count *recently* and I cannot be constantly called upon to count the House every half an hour: it was only just half an hour ago since I counted."

Dr. K. E. DADACHANJI: Some reasonable time must be allowed.

The Honourable the PRESIDENT: Some reasonably decent time; or else my duty here would be to sit and go on counting the House every now and then.

An HONOURABLE MEMBER: I thought the Secretary does the counting.

The Honourable the PRESIDENT: What is it?

Dr. K. E. DADACHANJI: My honourable friend Mr. Havelivala says that the Secretary does the counting.

The Honourable the PRESIDENT: But the Secretary is identified with the Chair in that respect.

Mr. M. A. HAVELIVALA: Quite right, Sir. I am sorry.

Dr. S. S. BATLIWALA: Then, after the Government have received those protests from the people, they reconsider the question and issue the final resolution, which becomes binding on the people. This arrangement, I am afraid, Sir, is not very satisfactory, for a very simple reason, that invariably you find the officers appointed to go into the settlement question differ among themselves. For instance, the settlement officer may recommend no increase on some grounds, such as high prices, and the Collector may differ and say that the increase in the assessment is needed. Sometimes the Collector may say one thing and the Commissioner may say another, and the Government usually supports that officer's view which brings in more revenue from the assessment. Sir, I shall only quote two such instances to prove to the House how differences of opinion do arise and how they are attended to.

I shall now quote a short paragraph from a report made by the Assistant Collector in charge of the eastern division of the Poona district who tried to establish the proposition that high prices did not affect the bulk of the cultivators as at first sight might seem probable. He wrote as follows:—

"It is true that irrigators have so benefited as they have every year assured crop returns. Other cultivators, however, the vast majority, have, it can safely be said, not benefited at all, when the cultivator has either no crop or a poor crop just sufficient to maintain his family as has happened in the majority of years, high prices confer no benefit on him. They are indeed the index of the scantiness of crop outturn.

This view of the Assistant Collector about high prices was repeated in the case of Indapur Taluka and did not, however, meet with the approval of Government, and Government in their resolution dated 2nd November 1911 observed as under:—

"Government cannot, however, accept Mr. Brander's conclusion that the recent high level of prices is simply due to crop failure, local or general, nor the assertion that the cultivators have lost rather than benefited by the high prices. The causes and the nature of the rise in prices are problems of infinitely intricate character, but it is certain that on the whole prices of agricultural produce enrich and do not impoverish the cultivator."

Here the Government was clearly arguing in favour of a theory flatly contradicted by the facts cited by the Settlement Officer. This is one instance. I will give you another instance, where Mr. Brander, the Collector, had proposed that certain revenue rates should be guaranteed to the ryots only for a short period, so that Government might not lose the advantage of the possibility of higher prices being obtained a few years later.

What did the Commissioner of the Central Division say? He said:

"Mr. Brander is in favour of short guarantee, but Government is not a mere money-making landlord and there are important considerations that make it sound policy to give a long guarantee.

The above is absolutely the reverse view to that held by Mr. Brander, but something quite different is yet to come.

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As against that opinion, the comment of another officer was:

"It is, I believe, a fact that the finances of Government now are so straitened that it is a matter of great difficulty after providing for ordinary recurring charges to find a surplus for meeting urgent and recognised wants. Under such circumstances, a Government which in justice to the general taxpayer and in the true interests of the country at large, wisely husbands its principal asset need not be afraid of the reproach of being called a money-making landlord."

You will see from these two instances, which could be added by scores by reference to official records, that our distinguished officers who were appointed to consider the question of the assessment of land revenue—whether it should be increased or decreased or be kept at the same level—have been found to differ in their views, and finally Government issues a resolution as it suits it best. Well, Sir, from this you will see that even among their own officers there is no unanimity of opinion.

Now, I will come to the fourth point which can be deduced from the third point, namely that vast discontent prevails among villagers wherever and whenever the land revenue assessment is being revised. There is always a big uproar against such increases of land revenue assessment every time they are being carried out. I do not for a moment say that Government does not take adequate precaution to ensure that no injustice is done to any class of cultivators but the fact remains that there is a great deal of heart-burning, a keen sense of injustice and discontent prevails in the minds of those cultivators who are affected by it. I could prove this by quoting innumerable instances, but I shall not take up much time of the Council and will therefore give only one instance of revision of land assessment which was carried out about a couple of months ago in Kolaba district. Some of the villagers sent a petition in vernacular to the Collector of Kolaba. They say that they have not been replied to by the Collector as yet. Their assessment has been increased by 25, 30 and 40 per cent. and when they applied to the Collector requesting him to take their case into consideration from their point of view, they have not been replied to. If that is the case, where can these villagers go and appeal, when they do not get even a reply from the Collector—how far true it is I am not prepared to vouch for, but the fact remains that people are groaning under increased assessment without redress.

It was only as recently as the 6th of August 1920 that my honourable friend, the honourable the Minister for Education, who was then a non-official member in the old Legislative Council, moved a resolution to the effect that the new revenue settlement of the Erandol taluka as fixed by the settlement officer should not be sanctioned. He then thought that the injustice was of so glaring a character that he felt it his duty to move in the then Legislative Council the resolution in question. His resolution, I regret to say, was not carried then, but all the same I sincerely trust and hope that my honourable friend, the Minister for Education, will, when called upon to vote, express himself on the side of my resolution which though not similar to the resolution which the Honourable Minister for Education had, as a non-official member, moved in the Legislative Council of 1920, yet my resolution if passed will prevent recurrence of such cases as pointed out by the Honourable Minister. I hope that the transference of his seat from the public side to the Government bench has not changed his opinion, and that what he considered to be a grave injustice to cultivators in 1920 is not now converted into justice in view of his present position in Government.

I shall now beg leave to suggest that when Government officials, appointed to revise the assessment on land revenue, arrive at a certain conclusion either

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to enhance or decrease the assessment, they should instead of sending their report to Government place the same before this Council or its committee, as has been done in Madras, the United Provinces and Bengal which after examining the question with Government officers, may place the subject for final sanction before this honourable Council. In Madras you will find a committee has been appointed, as late as last year, to consider proposals for land revenue settlement, as the result of the discussion on Land Settlement Bill introduced in the Madras Legislative Council. I will read out a small paragraph which shows what Madras has done in this matter:

"In accordance with the recommendations made by the Council, the Government requested the Board of Revenue to prepare a draft bill dealing with the main principles on which the land revenue is determined; the methods of valuation, the pitch of assessment, the period of revision, the graduation of enhancement and other chief processes...."

The Honourable the PRESIDENT: Is the honourable member reading a written speech?

Dr. S. S. BATLIWALA: No, Sir. I am just reading a small paragraph.

"....which touch the well-being of revenue payer."

In obedience to those orders the Board of Revenue submitted a tentative draft bill and at the same time recommended that an officer thoroughly experienced in revenue settlement work be placed on special duty for the purpose of drafting the bill. Before considering this suggestion the Government desired to undertake an examination of the general principles which should be embodied in the bill. They have decided accordingly to appoint a committee to make recommendations as to the lines on which the bill should be drafted. If a similar step is taken by our Government, I think that will satisfy our wants and if they appoint a committee for the purpose, I shall be delighted. I therefore request that whenever proposals for increasing or decreasing the assessment of land revenue are brought up before the Government, they should always be placed before the Legislative Council or a committee about which I have already spoken. Sir, this committee will not be a novel affair in India. Even Sir William Vincent in the Imperial Legislative Council has stated that the assembly should agree to the election of panels of members from which will be nominated members for the Standing Committee to be attached to five departments of Government of India. The panels in the cases of the Home and Education Departments will consist of six members and in the case of the Commerce and Industry, and the Revenue and Agricultural Departments of nine members.

The Honourable the PRESIDENT: But the honourable mover's resolution is that all such proposals should be subjected to discussion by and in the Legislative Council. The honourable member ought to confine himself to the terms of the resolution. We are not concerned with committees for land revenue proposals.

Dr. S. S. BATLIWALA: What I submit is that committees may be appointed who may formulate the proposals and bring them before the Council.

The Honourable the PRESIDENT: That is subsidiary. We are concerned with the first step. The honourable mover is putting the cart before the horse. Let us have the horse first.

Dr. S. S. BATLIWALA: I only say this: there cannot be any possible objection if committees are appointed.

The Honourable the PRESIDENT: The question of committees is not before the Council. It is a question of bringing the proposals before this Council for discussion. If that has been done, then the Council may decide the question of appointing committees.

Dr. S. S. BATLIWALA: Sir, I bow to your decision. My contention is that if my resolution is adopted, firstly it will remove all opposition from the representatives of the ryots, who will fight in their behalf to see that justice is done, and secondly, it will lead to contentment and peace in place of discontent and agitation.

Sir, I am sure, the Government might reply....

The Honourable the PRESIDENT: It is no use anticipating replies by saying 'might'. The Government have not yet replied. What is the use of speculating?

Dr. S. S. BATLIWALA: What I want to argue is, what Government may have to say is that this is a complex problem, and when these settlement proposals are ripe the Council may not be in session, and therefore, this course could not be accepted. My reply to this possible objection is that when revisions are carried out, they take not only months but years to complete. Comprehensive investigation has got to be made by Government officers. A few months more may be allowed for discussion of the same by the Council at the final stage of revision. Finally, I may ask if the Government do consider it desirable to appoint a committee....

The Honourable the PRESIDENT: The speech of the honourable member is for the committee, while the resolution is for subjecting the revision proposals to the discussion of the Council.

Dr. S. S. BATLIWALA: If there is any difference of opinion among officers and if Government feel any difficulty, they can surmount it by means of co-operation with this Council. With these words I commend the resolution for the acceptance of this Council.

Rao Saheb D. P. DESAI (Kaira District): Sir, I beg to support the resolution moved by my honourable friend from Bombay. I think this resolution ought to be non-controversial on the part of both official and non-official members of this Council. I say so with reason. All official members, those who are Indians, are committed to the old congress programme, and they have on more than one occasion given their vote for a resolution of a more drastic character than the very, very mild one moved by my honourable friend from Bombay. Those who are European members are also committed to this resolution. They are committed because in their own country they uphold the policy of non-interference on the part of the State in the rights of private ownership in land. What they uphold in their own country, they cannot deny to this country. As an instance I may point out that when the present Russian Government under Lenin decided to nationalise Russian lands, this action on the part of Lenin was looked upon as a big crime in England....

The Honourable the PRESIDENT: May I with due deference to the honourable member say that he is now drifting away from the resolution? There is no question of nationalisation of land. At present the whole discussion ought to be confined to the question of bringing assessment proposals for discussion in the Council.

Rao Saheb D. P. DESAI: The other day the Honourable the Finance Member stated in his budget speech that land is nationalised in this country, but the tenor of the resolution moved by my honourable friend goes against the principle of nationalisation of land.

The Honourable the PRESIDENT: We are burdening ourselves with the complicated question of nationalisation which may carry us anywhere. It is not relevant.

Rao Saheb D. P. DESAI: In any case I hope the official block can very well vote for a resolution of this sort which leaves to the Council to determine whether or not land should be assessed. As regards the resolution itself, I am sorry to say that it has been very mildly worded. It is such a mild resolution that it does not take away the element of insecurity which is hanging on the poor ryot, it only asks that the Settlement Department of Government which carries on settlement operations should submit its proposals to the Legislative Council instead of to the Government. Hence it is clear that the sense of security will not be obtained by this resolution. However, I would rather have the arrangement proposed by this resolution, mild though it may be, than have the present state of affairs as regards land revenue management and land revenue assessment. The whole point, Sir, turns upon this question: whether the cultivator is to have security of tenure and the benefits resulting therefrom or not. I think if he feels a sense of security, however little it may be, by the carrying out of this resolution into actual practice, and as a result of this security increases the total yield by about 2 maunds per acre—which is not at all a difficult matter—then I can assure this Council that in my own district, which is a small district, there would be enough new wealth created by the cultivators to start one factory with a capital of a crore of rupees or a hundred factories with a capital one lakh each. I mean by this that that much of machinery would be set in motion and this will bring more revenue to the State in other ways. The point is that he requires some inducement to put his heart into the business. Thus, by the sacrifice of a few lakhs of rupees every year you will be filling the coffers of the State and at the same time will be bringing prosperity all round, that is, in trade, industry and agriculture. Unfortunately, the method of assessment and the methods adopted in fixing these assessments are faulty in many respects. In the revision of assessment Government take into account the increased prices of the crop, but in all their reports I have never found that they at the same time consider the increased cost of production to the cultivator. The war has brought on increased prices. Under the present rules, if Government officers go to settle a particular taluka, they will say that the prices of the produce of the land has risen and base their future assessment on these prices, but they will never say a word about the increased cost of production to the cultivator himself. Even in the best of years, that is, years in which the highest prices were recorded, I found that the cost of production also increased to such an extent that it left very little margin of profit to the cultivator. What the agriculturists want is not high prices, but easy prices and bumper harvests. Again, Sir, the real test of the assessments is the condition of the agriculturist, that is, whether he is living more comfortably than he used to live, that is, whether he is buying more articles than he used to buy.....

The Honourable the PRESIDENT: Order, order. We are not now dealing with a resolution about the condition of the agricultural classes, but with the propriety and desirability of enabling this Council to discuss the question of enhancement of assessments instead of leaving Government to deal with it

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without any cognisance on the part of this Council. That is the whole question. It is relevant to that to say that the way in which assessments are being levied and enhanced is so arbitrary that the cultivator is placed at a disadvantage, and that therefore his representatives in the Council ought to have an opportunity of bringing their minds to bear on this, and that Government's policy ought to be directed by this Council. But it is irrelevant to go into the question of the condition of the agricultural classes: that would open a very wide vista of debate beyond the limits of the resolution under debate.

Rao Saheb D. P. DESAI: Yes, Sir. I accept that view, and would just say this: that the methods of assessment hitherto employed were so questionable that the cultivator would very willingly leave the whole matter to the decision of this Council on which his own respresentatives sit, rather than leave those assessments to be arrived at by and to be fixed at the arbitrary will of, Government officers.

Now, Sir, if we take one single instance, that of the appreciation of the rupee, we shall find that by simply artificially raising the value of the rupee the assessments were automatically raised to that extent. Another point I would urge is this: that the policy of protection so recently adopted by the Imperial Government would compel the agriculturist to buy his articles at.....

The Honourable the PRESIDENT: I am afraid the honourable member is going beyond what is relevant. I want to know what bearing this question of protection has to this resolution.

Rao Saheb D. P. DESAI: He has to buy his things at enhanced prices, while he has to sell his products at lower prices.

The Honourable the PRESIDENT: That may be a very legitimate argument if the question was of the ryot's condition, but at present the whole question is a very narrow one: Should the question of enhancing assessments be determined under the direction of this Council or not?

Rao Saheb D. P. DESAI: I just cite these instances in order to show that perhaps when all these complications arise the ryot's own representatives should have a deciding voice in judging what he should pay under these altered conditions rather than the Government officials.

The Honourable the PRESIDENT: That is perfectly within the limit.

Rao Saheb D. P. DESAI: Then, another factor, not of the same type, but of a different type, which affects this problem but which has hitherto not been considered is the exhaustion of land. Government officials are not likely to, and perhaps they never, take into consideration this great factor of exhaustion of the land: they always consider that land would continually go on giving full harvests for all time, whil in fact it is getting gradually exhausted. It has been found both in Gujarat and in the Deccan that the normal output per acre is gradually decreasing and that it is sustained and kept on at a certain level not by the so-called inexhaustible capabilities of the land itself, but by artificial methods such as manures, fallowing, etc., and by sundry improvements made by the agriculturist himself.

The Honourable the PRESIDENT: The honourable member has exhausted his 15 minutes.

Rao Saheb D. P. DESAI: Within five minutes I shall close.

The Honourable the PRESIDENT: I am afraid.....

Rao Saheb D. P. DESAI: Only two minutes, Sir. Lastly, I would just request my honourable friends here to note that there are flagrant instances of wrong settlements made in this country by settlement officers. As an instance, I would cite.....

The Honourable the PRESIDENT: All this ought to have come first. Unfortunately, the honourable member is entering into the vitals of the subject, after having dealt with the fringe up to now, when his fifteen minutes have gone.

Rao Saheb D. P. DESAI: It has been touched upon by my honourable friend the mover also.

The Honourable the PRESIDENT: Then it is repetition.

Rao Saheb D. P. DESAI: I am not going to repeat those instances. There are instances in Gujarat of about two or three talukas which have been held by the Government officers themselves as very highly assessed, and to condone that they have held revision of assessments before the expiry of the full period of settlement. For instance, they found that the revision settlement of Matar taluka in the Kaira district was so excessive that the result was that the population decreased, and the land under cultivation was being abandoned by the agriculturists. Government, therefore, ordered out a re-revision of those two talukas. Similarly the Olpad taluka in Surat was excessively assessed. There.....

The Honourable the PRESIDENT: The honourable member has kept his best wares to be exposed at the last moment after his time has elapsed.

Rao Saheb D. P. DESAI: I won't inflict myself on the patience of the House any longer, but.....

The Honourable the PRESIDENT: If I allow this, every honourable member will say that he wants five minutes more.

Rao Saheb D. P. DESAI: Only half a minute more, Sir. My recommendation to my honourable colleagues here is that it would be better for them to provisionally accept this resolution, faulty though it may be, than throw it out altogether, and for the same reasons I also accept it provisionally.

The Honourable Sir IBRAHIM RAHIMTOOLA: Mr. President, the honourable member for Kaira said that he accepted the resolution, though it did not fully satisfy him. I would, therefore, at the start, draw his specific attention to the wording of the resolution, and ask him as to how he expects it to be practically carried out. The resolution says:

"That all proposals for increasing the assessment of land revenue brought up before the Governor in Council be subject in future to a discussion of the same by the Legislative Council and the recommendations of the Council as a result of the discussion be the guiding factor in the revision of the assessment of the land revenue."

I ask the honourable member, with his great experience of agriculture, to tell the Council how he expects that this resolution can be practically carried out.

Rao Saheb D. P. DESAI: Yes, Sir.

The Honourable the PRESIDENT: Order, order.

The Honourable Sir IBRAHIM RAHIMTOOLA: The honourable mover explained what the system of land revenue assessment in the Presidency is. Officers, after prolonged training in settlement work, are regarded as qualified to undertake the work of carrying out a settlement. These officers, who are specially trained for the purpose, carry out the work of settlement. They

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make a report; the report goes to the Collector, and then to the Settlement Commissioner, and then to the Commissioner of the Division. Then it comes to Government, and the Secretary, who is also an experienced revenue officer, examines all these proposals before submitting them to the Member in charge. Now, at what stage does the honourable member desire these proposals to be brought before the House? I have had a little experience of what these files run up to, and unless a considerable time is devoted to examining these details, it is hardly possible to arrive at any definite judgment. It will be obvious, from the explanation which I have given, that several trained and experienced officers examine these settlements before they come up for the final sanction of Government, and all relevant matters are thoroughly gone into. Therefore, I ask, at what stage do honourable members desire that these reports should come before the Legislative Council? The second question I should like to ask is, how much time is the Council prepared to give to study and examine all these details of each single revenue settlement? I am afraid honourable members will desire that all these voluminous documents should be printed and supplied to each honourable member, and then they must be given sufficient time to study them. After that we will have a Council meeting, and there will be elaborate discussion extending over several hours if not several days. If that is going to be done with regard to each and every settlement, I am afraid there will be hardly any time left for other work. And, after all, what will it be that honourable members will be able to say? Therefore, it appears to me that the remedy provided in the resolution is entirely misconceived.

Reference has been made to the recommendation of the Joint Parliamentary Committee, and this resolution appears to have been based on that recommendation. I do not think that there can be any difference of opinion as to the general principle underlying the Joint Parliamentary Committee's recommendation that, under the Reforms, honourable members should have a voice in every form of taxation, and as land revenue is one of them, they should have a voice in it. Now, I ask whether honourable members have or have not such a voice. What I wish to point out is that honourable members have definitely the kind of voice which should vest in such a deliberative assembly as this Council, and what is that voice? That voice is the passing of the Land Revenue Code. This Council can regulate the policy and lay it down definitely in an Act. That Act would be worked by the executive officers. If it is not worked satisfactorily by the executive officers of Government, honourable members have again the remedy of raising specific issues as regards the administration of the Act by a resolution in the Council, or, if they are not satisfied, by introducing amending legislation. That is the power that they have.

The Honourable the PRESIDENT: May I say to the Leader of the House that a more potent instrument in the hands of the Council is the budget discussion? When the Land Revenue head is being discussed, all the grievances can be brought up on that occasion. That, I think, is the real occasion.

The Honourable Sir IBRAHIM RAHIMTOOLA: Yes, Sir. I should like, however, to point out that land revenue is a reserved subject, and that was why I pointed out the remedies open to honourable members. By adopting such remedies they can make the administration conform to public opinion.

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If they start actual interference in administrative details as to the way in which a particular village should be resettled and lay down specific recommendations in regard to it for the guidance of Government, the work of administration will stop. I do not wish to be misunderstood. I say, that you have got the kind of power which must have been in the minds of the Joint Parliamentary Committee when they made the recommendation referred to, namely that this Council should lay down the policy in regard to land revenue administration and that such policy should be carried out by the executive Government. That is the point which I wish to impress upon honourable members. To my mind, the point is quite clear. My honourable friend the mover stated what is happening in Madras. All that I can make out of that quotation is that a committee has been appointed in order to suggest the lines which legislation should take for the purpose of laying down general principles of land revenue policy. Such legislation we have, and if any honourable member thinks that it should be modified in any particular way, he has the remedy of either bringing a definite resolution for the purpose or introducing amending legislation. My great difficulty in dealing with the subject is that the resolution as it is put before the House cannot practically be carried out. The honourable mover has quoted my honourable colleague the Minister for Education. He adopted what I think was the right remedy. He felt that in a particular case the revised assessment was unduly high and he brought it to the notice of Government through the Legislative Council; that remedy is open to every honourable member of this House.

Then, Sir, there was one point which was made by the honourable member for Kaira district. He said that in certain cases land revenue revision was admitted by the revenue officers themselves to be rather excessive and proceeded to give the reply himself that as soon as the attention of the revenue officers was directed to the fact they immediately ordered a re-revision in order to reduce the assessment.

Rao Saheb D. P. DESAI: But that was after the request was made.

The Honourable Sir IBRAHIM RAHIMTOOLA: Exactly—after their attention was directed to it. Land Revenue system is worked by trained men who carry it out to the best of their ability. Mistakes do sometimes occur, but there are means by which they can be rectified. The excessive assessment referred to was not allowed to run for 30 years, the full period of each settlement, but was revised and reduced as soon as attention was called to it. That shows that revenue officers are fully alive to the discharge of their duties and try to work a very complicated system in the best manner possible. A resolution of this character which asks that each settlement should come before the Council and be discussed by honourable members before any revision can take place is obviously impracticable, and I therefore trust that the House will not accept it.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, I have very great sympathy with the spirit of the resolution. But when this resolution was pointed out to me, I respectfully gave my opinion to the honourable mover of this resolution about its impracticability and I discussed with him the question and told him that the Council could not exercise its vote in putting such a matter under the discussion of this Council. But at the same time while approving the arguments that have been urged by the Honourable the Leader of the House regarding the competency and expert knowledge of the

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Government revenue officers, one point alone remains and that is that it is a one-sided decision. There is no say as regards the public when the assessment is revised. Therefore, it will be advisable to have with the Government experts a few non-official experts also in this matter, who also ought to be consulted before the orders are passed.

Rao Bahadur G. K. CHITALE (Ahmednagar District): The House, Sir, is very much thankful for the exposition of the problem by the Honourable the Leader of the House. There is no doubt very great difficulty in accepting this resolution and even if it is accepted, if the decision of this House is going to be a guiding factor, then mere advice in my opinion is not likely to be a decisive factor against the opinion of experts. But, may I point out to the Honourable the Leader of the House that the spirit is there—if he accepts the spirit—and that spirit runs through the whole report of the committee. What is intended, Sir, is this; it is recognized that land revenue is such a matter of taxation as affects the interests of a very large class of people and, out of all our reserved subjects, that is the subject which is recommended to be transferred at the earliest opportunity. That recommendation is made with the sole purpose of bringing this form of taxation under the popular will. That spirit being there, the Honourable the Leader of the House feels a certain difficulty in accepting it in the form of this resolution. He will however admit, Sir, that in any form of Government bureaucratic, autocratic or democratic, taxation has to be imposed, and there are also certain circumstances where taxation proposals are more or less likely to be coloured by certain prejudices with the necessities of the particular times. I do not wish to charge public officers by saying that they are sometimes hard, but I do not think that it will be far amiss to say that their views are liable to be mistaken and instances could be quoted by dozens wherein in the opinion of several competent officers it may be found that their judgment was not properly exercised, the spirit, however, being that land revenue is a matter which affects the interests of the people and the wish of this House being that this form of taxation should be given ample opportunity for the ventilation of public opinion, I believe, Sir, that the Honourable the Leader of this House has in his own sweet will to create a necessary machinery if he can. It may be that the whole House perhaps is not a body which can be at once taken into confidence. It is just possible, however, to use another machinery which is recommended in the Joint Select Committee's report—I mean a sort of standing committee could be appointed on land revenue assessments and others—if all those proposals are matured, and if those members who form that standing committee are taken into confidence and their advice is taken, I believe the wishes of this House will be met. It may be perhaps a very early cry for the creation of this standing committee, but, having regard to the fact that it is one of the subjects which are ear-marked for early transference, I would put it to the Honourable the Leader of the House whether he will not accept this resolution and, in that case, I would ask my honourable friend the mover of the resolution to withdraw it having regard to the discussion so far.

Mr. R. G. SALGAR (Sholapur City) (Addressed the House in Marathi): Mr. President, I strongly support the resolution moved by my honourable friend from Bombay. In my own district (The honourable member, though speaking in Marathi, used the word 'district' in English).....

The Honourable the PRESIDENT (in Marathi) : When talking in Marathi, English words should not be used.

Mr. R. G. SALGAR : In my own district, Sir, there has been great injustice in regard to the land revenue assessment. For instance, in the first list of questions of this session, Government have replied to one of my questions as follows. Shall I read it in English, Sir ? I can read English, although I cannot speak fluently in English.

The Honourable the PRESIDENT (in Marathi) : According to our Standing Orders, the speeches should either be in English or in the vernacular ; but they cannot be partly in English and partly in the vernacular. The honourable member need not read the answer in English ; he might explain its purport in Marathi.

Mr. R. G. SALGAR : Very well, Sir. I had asked Government to state the scale of revision settlement in the Malsiras and Karmala talukas of my district, and Government in answering my question admits that the new rates brought into force in these two talukas are higher than in other talukas of the district and they also admit that these two talukas are famine-stricken talukas of the district. I really fail to understand, Sir, how these two statements can be reconciled. If it is admitted these talukas are famine-stricken, where is the justification for increasing the assessment ? It is a well known fact that these talukas suffer from famine every now and then, and in spite of that, Government have increased the assessment in these two talukas. The Honourable the Leader of the House tells us that full and complete enquiries are made into all these matters before any increase in assessment is sanctioned. If that be so, may I request him to enlighten the House how this injustice to these two talukas has come about ? It will be seen from the statement supplied by Government in answer to my question that out of a total of 123 villages in Karmala taluka all the 123 villages had, in 1920-21, a crop of below 4 annas ; and the same was the case in regard to all the 69 villages out of a total of 69 in Malsiras taluka. These talukas specially, have been suffering from famine for the last 10 years which I see from the crop report supplied by Government as an answer to my question which I here referred to. That being so, it will be obvious from the Government's answer itself that there has been great injustice done to these two talukas in the matter of revision settlement. I also draw the attention of the Honourable Member in charge to Sardar Miriker the District Deputy Collector's report about the revision settlement of these talukas which has not been considered. In these circumstances, I strongly support the resolution, as I am sure it will lead to very beneficial results from the point of view of the agriculturists of this Presidency.

Mr. L. J. MOUNTFORD : Mr. President, as regards the question of land revenue settlements, it might perhaps interest the House to understand the principle on which settlements are made. They can then consider whether they are capable of giving such opinion as might be of value to the agriculturists. Increases of assessments are based mainly on the changed prices and rates, on improved communications, on the position of the market and the general prosperity of the tract to be brought under the revision settlement. All these are demonstrable reasons, and the assistant settlement officers and local revenue officers will not find any difficulty in adducing sufficient reasons for increases of assessment proposed in revision settlements and they all carry this out in a manner fair to the ryot and fair to the Government. At the same time, I would also like to point out that increases of assessment on a revision of settlement are strictly limited to a certain percentage, beyond

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which the settlement officer cannot go, and beyond which Government themselves cannot proceed. In view of the importance of the climate, quality of the soil, and agricultural capacity of the cultivators in the different parts of the Presidency, a most intimate knowledge of the tract under revision and of the economical effect of the various assessments on agriculture in that tract is essential if anybody is to criticise the proposals for a revision of assessment made by the special settlement officers and the local revenue officers who tour round and visit every village that comes under revision. Unless members of this Council acquire an intimate knowledge by a most zealous study of the tract their recommendation is likely to be faulty. It is not a question to be settled by eloquence, by recitations of hard cases and by vague generalities, but by careful consideration of all the factors connected with the value of the land and with the increase of value that the land has attained during the past thirty years before the revised settlement. In order to effect a revision settlement, the officer who is put on that special work and is charged with these responsible and difficulty duties has to acquire an intimate knowledge of the condition of every village and of the extent to which the cultivating classes have improved under the last settlement during the last thirty years, and to appreciate that to the full requires a knowledge of the principles of assessment and the manner in which such principles have been applied from time to time by various officers before him.

The Record of Rights has to be examined in every detail village by village to ascertain sales, leases and mortgages.

The Honourable the PRESIDENT: May I remind the honourable member that he is reading a written speech which is not allowed?

Mr. L. J. Mountford: May I explain, Sir, that these are notes and not a written speech?

The Honourable the PRESIDENT: If he assures me that they are notes though rather copious, I shall be satisfied. Notes, even if they are copious, are allowed.

Mr. L. J. MOUNTFORD: I understand the allusion: these are notes written in the margin of a typed sheet, as I had no other paper available just now, as I took them down: I am reading from my notes and not from the typed sheet.

The Honourable the PRESIDENT: Very well, the honourable member can go on.

Mr. L. J. MOUNTFORD: The Record of Rights has to be examined in every detail as regards mortgages, leases and sales in every village, their figures are carefully taken out and it is chiefly on those data that the Settlement Officer bases his recommendations for increase of assessment. If you take some of the talukas recently revised—say in Belgaum and Khanapur—you will find that leases have considerably increased and are now five to six times the actual assessment with which we have been told this land is overburdened. We find that this land which is said to be so overburdened with assessment, is considered to be a very marketable commodity. If this assessment were so high as to cause this "grave discontent," it is but fair to assume that few people would be willing to pay such high assessment if land were brought on the market. What are the facts? We find that people are willing to pay very often one hundred times the assessment of the land; we find that when a plot of land is offered for sale, there are crowds of bidders ready and willing to pay very high prices indeed, very often bidding as high as two hundred times the assessment. That

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does not give one to understand that the assessment is too high. However, I do not wish to burden you with any further details, but I will pass on now to the actual remarks made by various honourable members.

We have been told that there has been "discontent and an uproar"—a very general remark which has not been substantiated by the honourable member who made it. We have carried out several revisions of land assessment—in many cases, perhaps in most cases, the assessment was increased: I will later on tell you why, but of course you must expect a certain amount of talk in such matters. It is only natural. No one wishes to pay more and anyone who thinks that by complaining he will be able to get one anna knocked off his assessment is perfectly justified in lodging a complaint. We have been told by the honourable member from Broach that it is rather a one-sided operation and that the cultivator has not got his say in the matter.....

The Honourable the PRESIDENT: Will the honourable member permit a brief interruption? I am afraid I laid down a ruling too broad in character when I said that written speeches are not allowed. On reference to authorities in *Hansard* I find that where a member of Government has to make a responsible statement and expound a policy, the Speaker in the House of Commons has laid down the procedure. In one case an objection was raised when the Speaker said:

"The action of the honourable member who takes objection to a written speech in this matter is extremely ungracious. I have to exercise my own judgment. A great deal depends on the nature of the speech. If the character of the speech is such that it is likely to be read not only throughout the country but by several other persons outside, it is quite obvious that special pains must be taken in the composition of such speech and I think the House must judge these matters according to the importance and value of the speech. I dissociate myself entirely from any suggestion that he violated any parliamentary function in reading his speech. If he did, that was because as a Government Member it is a function which might well be in abeyance in a time so momentous that he should take care that what he has to say is carefully and deliberately expressed."

I remember I ruled on a previous occasion last year that following the practice in the House of Commons a Member of Government might be allowed to read written speeches because Government members are not free lances like non-official members. I apologise to the honourable member, the Commissioner of the Southern Division, and allow him to read his speech because it is a responsible official statement on behalf of Government.

Mr. L. J. MOUNTFORD: I thank you, Sir. The duty of replying to this resolution has been sprung upon me in such a way that I have not been able to prepare a speech at all. I am sorry, therefore, I cannot avail myself of your kind permission.

Mr. M. A. HAVELIVALA: It will not be quite fair to non-official members, Sir.

The Honourable the PRESIDENT: When non-official members are transferred to the official benches, the ability to do without written speeches gained on non-official benches will prove very valuable. I am acting in accordance with the practice in the House of Commons. Even the Prime Minister, who is one of the greatest orators and ready speakers, has to read written speeches when it is a responsible statement that he has to make and which will be criticised throughout the country.

Mr. L. J. MOUNTFORD: The honourable member has told us in the most reasonable manner possible that our settlements are one-sided, but I hope he will not mind if I take upon myself to repudiate that statement of his. Our settlements, as he would find if he were to be a settlement officer

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in charge of revision work, are brought to the villagers' notice and the ryots have their chance of having their say and always have their say. They are informed why the assessment has to be increased and they often object and their objections are that they do not want to pay more assessment, naturally. The data of sales which we have for the last thirty years show land is steadily rising in value and increased assessment is justified.

The honourable member from Bombay has told us that the ryots are "groaning under a great pressure of the land assessment." When land is selling at hundred times the assessment, when land is being leased at five to six times the assessment per annum, I think such groans are not coming from any pressure caused by the assessment levied by the Revenue Department, but, I should rather say, from a sense of surfeit (Laughter). What do we find when one of these ryots who are said to be groaning under the load of assessment goes to buy more land? He does not hesitate to bid fancy prices for the land that he has set his mind on. Not far from these doors we have seen the great reluctance the ryot has evinced in parting with his land even though the price offered is over one hundred times the assessment, and we always find this difficulty when land is required for industrial concerns. Not only that, but we find when he bids for land which we sell to execute decrees he bids enormous sums. Can the honourable member from Bombay say that people going in for such land transactions are groaning under the weight of the assessment charged by the Revenue Department? Can he say that the assessment on land presses down upon these people and crushes down their life out of them? I think not.

If you will refer to the last revenue administration report, you will find that our collections of land revenue are fully 97 per cent of our revenue of some crores. It is hardly possible that we can collect 97 per cent. of the charges if the assessment is too heavy for the ryot to pay, as has been alleged.

In bad years we give remission, suspension of assessment and tagavi loans. If we go back to the days of Shivaji we find that the Royal share of the crop was two-fifths. In Sambhaji's time, about the year 1600, it was raised from two-fifths to half. We are not taking any such high rent, and the rent we take is a very moderate one. It will be seen from the settlement reports that this assessment is so fixed that it can be recovered easily over a period of three years. Apart from the generous principles on which our system of assessment is based, we have lately introduced rules for remission and suspension under which in a bad year we take half or nothing at times, and in a good year we recover the balance of suspensions, remitting all that are of over three years. Not only that; Government officers make every possible enquiry into the condition of ryots and their ability to pay.

The Honourable the PRESIDENT: May I remind the honourable member that it is now more than 15 minutes? As there was some interruption, the honourable member may go on for three or four minutes more.

Mr. L. J. MOUNTFORD: I have almost finished. One honourable member remarked that Government officers are interested in raising the maximum revenue from the ryots. The Government officers do not pocket the money; but you get the money for your schools, for your dispensaries, for your roads, for your travelling allowance (Laughter) and for your daily allowance when you leave your homes to take up your arduous duties here. The Government officer has got the interest of the country at heart, and he considers

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what the ryot can readily pay: what assessment he can reasonably be asked to pay, all things considered, and on these considerations he fixes an assessment that is fair.

When you consider the question of prices, you will see that rice is now 4½ seers per rupee, while it was 16 seers a rupee before: and the agriculturist has gained enormously from the rise in prices. This is an important factor which ought to be taken into consideration.

Then again, reference was made to difference of opinion among Government officers. With regard to that, I wish to say that such differences show that Government is not one-sided and that every possible care is taken to scrutinise each case and mete out justice. Our Land Revenue Code has been in operation for over 40 years, it has been commended by the Government of India, and is the object of envy in other Presidencies. It lays down the principle that the improvements that the ryots have made in their lands during the settlement should not be taken into consideration for enhancement of assessment. That is the ryot's charter. That code has worked very well for the last so many years. I consider that the House will be well-advised in leaving to Government officers to make these enquiries. They look into the condition of every village carefully and report to Government. Their statistics are made public, and if they are wrong, they can be challenged; and, if there is a real wrong, it can be righted.

Rao Bahadur R. R. KALE: I move the closure, Sir.

The Honourable the PRESIDENT: I accept the closure.

Dr. S. S. BATLIWALA: Sir, it is a matter of regret that the spirit of the proposition is not so well understood as I have it in my mind. My only object was to see that in case of any difference of opinion among Government officers this Council may co-operate with them. It is in the interest of the ryots that I was prompted to bring forward this resolution. Several instances were brought to my notice that representations from the ryots were not heeded. We are being told now by the Honourable the Leader of the House that my object could be achieved by revising the Land Revenue Code. But, surely I cannot make up my mind to think that the Honourable the Leader of the House could not suggest to us any other method or any other machinery with a view to remedy this legitimate grievance of the ryots. If at least any arrangement is made to allow a select few from the honourable members of this House to have some voice in the final conclusion more especially when there is difference of opinion amongst Government officials, I believe this Council and the public will be satisfied. My honourable friend the Revenue Commissioner stated that 97 per cent. of the assessment is collected fairly easily. I say, Sir, that it proves the docile and meek nature of the ryots. Then, Sir, it was stated that Government officers do not pocket the money, but for public benefit they collect the revenue. I do not for one moment think that the revenue is collected for the benefit of Government officers. But that does not disprove the fact that there are some grievances which should be redressed. We want to devise some means by which those grievances can be remedied. Therefore, the argument that the Government officers do not pocket the money is out of place. Then, Sir, the learned Commissioner says that the differences of opinion that exist amongst officers should be welcomed. No doubt, it does credit to those officers who in spite of being junior officers have the courage to differ and report to senior officers the grievances

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of the ryots. That is a trait which should be imitated by all Indians. But that also proves that there are several cases where these officers, who are specially selected and who are experienced in the work, differ among themselves. When there is this difference of opinion, there should be some third party to go to their rescue and decide matters. No doubt it is a complex problem. Very few of the members of this Council would be able to do the work that Government officers are doing, but what I have in my mind is that the revenue officers should go into the details of the assessment and bring all the facts and figures and lay their opinions before the Council. Then let it be discussed by a committee of members specially selected by this Council. It was that idea of mine that prompted me to bring this resolution before this Council, and that idea of mine will be an answer to the Honourable the Leader of the House who asked at what stage this proposal should be brought before the House. If some such arrangement as I have suggested could be brought about, I think it would satisfy the public. The Honourable the Leader of the House asked how much time would be taken to examine all these facts. Surely, this question of revision of land assessment takes months and months, and when all the facts are compiled and a short resumé laid before the Councillors who are elected by this body, then there will not be much time lost. I for myself think that it will not take more than a few weeks. Of course, there will be this delay of a few weeks, but, on the other hand, there will be ample satisfaction given to the agriculturists who will think that it is their representatives who have revised their assessments with the help of the Government officials. With these words I leave the resolution in the hands of the Council.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, I think I have satisfied the House that the method which the honourable mover proposes in his resolution is impracticable. Now, Sir, it would necessarily be urged that as the representatives of the people honourable members should have some say in the matter of laying down the principles which guide the revision of settlement of land revenue in this Presidency. I accept that position, and I desire to point out that it is open to the members—such members as are so inclined—to devote the necessary time to the study of the question, to thoroughly investigate the matter from materials which are open to them and to bring to the notice of Government any alterations or amendments which they think would conduce to improve the principles underlying the policy of revision of settlements.

[At this stage the Honourable the President withdrew and the Deputy President occupied the Chair.]

Sir, I may say that Government officers are doing their best to judicially determine what the extent of the increased assessment should be and Government has provided a system under which from a trained officer who carries out the settlement work right up to Government the proposals are carefully scrutinised before they are sanctioned. Now, Sir, it has been said by the honourable mover that the agriculturists submit to the payment because they are meek people and do not wish to trouble about the demands. I do not propose to go into the political aspect which that question raises, but I should like to remind honourable members of this House that under the Reforms the very large numbers of agriculturists are voters in constituencies which return members to this House. Those honourable members who represent the districts and obtain the suffrages of the agriculturist classes ought to devote a little of their time to studying the problem and submitting to Government

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through the Council or directly all their suggestions in the matter. Now, Sir, it may be asked how can honourable members do that? I will invite their attention to the fact that the Land Revenue Code is open to every one; that the rules made under the Land Revenue Code, which govern all these matters of land revenue administration, are available to them; that the Survey and Settlement Manual which lays down the principles is also available.

(At stage the Honourable the President resumed the Chair.)

Therefore, the materials which they require for the purpose of studying the question in the interests of the agricultural classes is available and can be made use of by such honourable members who desire to help their constituents and Government in a very difficult and complicated problem. If any special cases of assessment higher than is legitimate are brought to their notice, they have ample opportunities of ventilating them. The details of the system have been explained by the honourable the Commissioner for the Southern Division. Government would still be prepared to supply any information relevant to the enquiry which an honourable member may undertake to help him to arrive at the correct facts of the case. Those honourable members who depend for their seats on the votes of the agriculturists ought to do their duty to their constituents. To ask this Council to pass a resolution of this kind, which lays down that no increase in assessment should take place in any part of the Presidency until all the facts are placed before the Council and a discussion takes place thereon, is to ask the Council to undertake a task which is more executive than deliberative, and I trust that the honourable mover will be content with the discussion which has taken place and not press the resolution to a division. It will be open to honourable representatives of the districts to take up the question in right earnest, to study and to give the benefit of their studies to the Council and to Government.

Dr. S. S. BATLIWALA: Mr. President, I beg leave to withdraw the resolution.

Resolution by leave withdrawn.

Mr. G. B. TRIVEDI (Thana District): Sir, I beg to ask for permission to move my resolution No. 2.

The Honourable the PRESIDENT: I am not quite sure that that can be allowed, because I see that the Standing Order says that priority on the list will entitle the member to priority in moving that resolution to which he himself has given priority under Rule 1 of the Schedule: provided that if a resolution to which priority is given under Rule 1 is disallowed, the next resolution standing in the member's name may be moved in its place. So, the first resolution is not disallowed. No doubt, there is the other Standing Order which says:

"The relative precedence of notices of resolutions shall be determined by ballot in accordance with the procedure set out in the Schedule.

"Provided that the President may on the request of the mover thereof direct that any resolution upon the agenda be moved on any day allotted to non-official business."

Mr. G. B. TRIVEDI: The Honourable Minister who is in charge is agreeable to my moving it.

The Honourable the PRESIDENT: The honourable member from Satara probably wants to help me.

Rao Bahadur R. R. KALE: I was going to say the same thing. The Standing Order just now quoted enables the Chair to allow any resolution to

[Rao Bahadur R. R. Kale]

be moved on any day allotted to non-official business. This is the day allotted to non-official business. As the Honourable mover has stated, notice has been already given, and the Honourable Minister in charge agrees.

The Honourable the PRESIDENT: There is another condition which I laid down yesterday, that it must be of a very urgent character.

Rao Bahadur R. R. KALE: I might say it is of an urgent character, because it will be of no avail if it is not decided now, because we are now towards the close of the financial year.

The Honourable Dr. R. P. PARANJPYE: What I submit, Sir, is this. Personally, I have got no objection to the resolution being moved. But honourable members of the House have been under the belief that the resolution would not come up for discussion just now. (Honourable Members: No, no. At any rate, members on this side of the House have been under the belief that the resolution would not come up for discussion just now.

The Honourable the PRESIDENT: What does the Honourable Minister mean by "just now"?

The Honourable Dr. R. P. PARANJPYE: Before each member has got one innings.

Rao Bahadur R. R. KALE: I have been asking for priority for this very resolution.

The Honourable the PRESIDENT: The Chair's power is not disputed. Is there any dispute about that?

Honourable Members: No.

The Honourable the PRESIDENT: Then, Mr. Trivedi, resolution No. 2.

Mr. G. B. TRIVEDI (Thana District): Mr. President, the resolution which I wish to move reads as follows:

"This Council recommends to the Government that they should not reduce the present rate of grant-in-aid to secondary schools".

Sir, as a result of the retrenchment policy that was asked for by this Council and accepted by Government, the Honourable Minister for Education had to make a cut of Rs. 8 lakhs in his budget for Education. At that time the Honourable Minister said "I cannot promise that a good deal of hardship will not be felt by some to whom the grant is made." So, I want to be fair to the Honourable Minister that, in making those cuts which he had to do as a Member of the Government, he anticipated that there would be hardships to aided institutions. At that time, many of us felt that Education is so important that it ought not to be touched if this Council could help it.

The Honourable the PRESIDENT: May I ask one preliminary question? Has the budget settled the rate of grant-in-aid to secondary schools?

Mr. G. B. TRIVEDI: No, Sir.

Mr. J. C. KER: A total amount was reduced from the budget.

The Honourable the PRESIDENT: Will the total effect of this recommendation be to decrease the grants?

Mr. J. C. KER: The effect will be to increase them.

The Honourable the PRESIDENT: The honourable member had better go on, because I shall be able probably to spin out what is moving in my mind. On a point of order there may be some difficulty in the way of this resolution under the Rules and Standing Orders.

Mr. G. B. TRIVEDI: This Council, Sir, interested as it is in education, and that interest having been shown in the keen way in which the bill for providing primary and compulsory education was discussed in this House, is convinced that it must stand wholeheartedly for education; but it is not merely primary education in which this House is interested. It is interested in all the stages of education, not merely primary, but secondary and higher education. Nobody can be satisfied merely with the first stage of education, after having 50 years and more of education in this country, and having so many high schools and colleges. Therefore, this House is equally interested in seeing that secondary education also is not starved, but that it gets its proper share of nourishment. Therefore, there was serious cause for anxiety caused to aided schools, when they got a circular from the Director of Public Instruction lately that the grants-in-aid will be given at the rate of one-fourth of the expenditure as the maximum instead of one-third. So, there has been cause for serious anxiety. Now, these aided institutions deserve the support of this House as well as of the Government, because they are the agency which relieve Government of the duty which primarily falls on them. Secondary education is a duty of the Government, and, Sir, if we compare the state of things in India with that in England what do we find? The Honourable Minister has himself admitted that in England primary education, as it is understood, involves secondary education, because there, according to the present Act, the age of compulsion is 14, and, according to the extension clause it goes up to 16 and 18 years. So that, a child up to 16 or 18 years of its age has to be educated by the State under that Compulsory Education Act. So that, taking the analogy of England, secondary education has been considered in that country as the bounden duty of the State. Let it be said to the credit of the Presidency that there are self-sacrificing workers like the Deccan Education Society, the Sarvajanik Education Society in Surat, the King George High School at Dadar which is also run by a society, and also the society at Satara. There are institutions run by these self-sacrificing bodies where graduates, who are entitled to higher rates of pay, work in a spirit of self-sacrifice and accept low pay. But what is their state? Up to now in spite of the increase of fees that has been lately sanctioned in Government high schools—and as a corollary also they have been raised in these private high schools—in spite of that increase, they find that they cannot make both ends meet. They go to the public for funds and try their best, but one can understand that in this state of depression of trade they do not find much response from the public in spite of the best efforts, and at such time if the Government make up their mind not to go to their aid and give them better grants but on the contrary make up their mind to reduce the grants, it would mean the closing of so many good institutions which, as I said, are helpful to Government and it is to the interest of the Government, not only to their interest, but it is the duty of Government to come to the aid of these institutions. Therefore, I think that this House will not require many words from me to commend this resolution, namely that Government be asked not to reduce that grant.

Now as for money, I find one thing, that at the time of the budget the Honourable the Finance Member has made an offer of putting down five lakhs more if the balance at the end of this year proved to be more satisfactory than at present anticipated and the Honourable Minister has accepted that offer.

The Honourable Dr. R. P. PARANJPYE: On behalf of the House.

Mr. G. B. TRIVEDI: Yes, on behalf of the House. That is one thing. The second thing is that I understand as the toll system has been introduced by the Honourable Minister of Local Self-Government, there will be more money available to the transferred departments of Government. That is another matter.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: That money is to be used for the purpose of preparing the roads.

Mr. G. B. TRIVEDI: And the other measure is that as the Council has passed the first reading of the Entertainments Duty Bill and it is probable that it may be passed in the December session, Government will get more money, some more money at least, enough to meet this demand, for this year only, namely, the demand created by this resolution. So I have also shown that there are sources available and with the Honourable Minister in charge, who is an eager educationist and to whom it must be very painful to starve these institutions, I hope and trust that the Council will accept this resolution and that the Government will also accept it and try to find the money. With these words I commend the resolution to the acceptance of this House.

The Honourable the PRESIDENT: Before I put the question as proposed I desire to be satisfied on certain points. Last year with regard to a resolution moved by the honourable member from Surat, Mr. Lalbhai Ambaram, Rao Bahadur Chitale raising a point of order said:

"In this resolution I am afraid a direct recommendation is made. So that to meet this particular answer that there are no funds, the appropriation should be got out of the general appropriation of the insurance money on famine which amounts to about Rs. 63,50,000 a year."

Therefore he asked me to rule out the resolution as not in order, but I allowed it. But since then a serious difficulty has suggested itself to me. This is a resolution, and a resolution means a motion according to the definition under our Rules. A resolution being a motion, Rule 30 (1) lays down that

"No motion for appropriation can be made except on the recommendation of the Governor communicated to the Council."

Therefore, the question arises whether this resolution is not allowable under that rule.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Sir, the thing is that the Council has already sanctioned the grant at the time of the budget and it is only the Honourable Minister that has cut down this grant. The question is that the Council is now requesting Government not to cut that grant.

The Honourable the PRESIDENT: What is the budget grant?

Sardar V. N. MUTALIK: The budget grant is for the grants-in-aid. The Council had decided that Rs. 13,00,000 should be given for grants-in-aid. Then the question was left to the Honourable Minister to cut the grant.

The Honourable the PRESIDENT: Cut by whom?

Sardar V. N. MUTALIK: No specific instruction was given by this House about cutting this grant. Retrenchment was done by the Honourable Minister. The position then is this that the Council has sanctioned the grant. The grant is there and the cut is made departmentally without any decision on the part of this Council. Now, a recommendation is made to make no cut in this particular grant.

The Honourable the PRESIDENT: That is to say, to adhere to the decision of this Council.

Sardar V. N. MUTALIK: Yes, Sir, that is the exact situation.

The Honourable the PRESIDENT: Well, at present it seems to be on the border line and the honourable member can go on.

Rao Bahadur R. R. KALE (Satara District): Mr. President, this resolution is a simple resolution and requires no great exposition, because all that it asks, Sir, is that the *status quo ante* may be maintained in respect of the institutions that have been helped by the department of public instruction—I mean the several secondary schools of this Presidency. The resolution does not ask something new or that something additional to what has been granted should be given. Education is a provincial subject under the reforms and also a transferred subject, and certainly it is a matter of regret that the Council should have to bring forward a resolution of this kind. But the position has been brought about by certain circumstances which happened at the last session, and those circumstances were that a retrenchment was promised by Government, at the instance no doubt of the Council, in certain departments and among those departments the Education Department had to make its own retrenchment. The demands for grants that were made included an amount of Rs. 13,37,397 under the heading "Grants-in-aid to Secondary Schools" and the total demand was granted by this Council when the Honourable Minister placed that demand for the vote of the Council. Now, however, it appears from the statement which has been since furnished to honourable members that out of that amount of Rs. 13 lakhs and odd a reduction of Rs. 4,55,000 is to be made from the amount apportioned to the grants-in-aid to secondary schools. Now, this Council will have to form its opinion and assist the Honourable Minister in coming to a conclusion as to whether retrenchment should be effected in this manner in this matter, namely, in the amount of the grants-in-aid. I think, if we strengthen the hands of the Honourable Minister by passing this resolution, then the Minister will only be too glad to carry out the recommendation of this Council, because it is on account of the position taken up by the Council that there should be rentrenchment that he was obliged to show a retrenchment in this direction. If, however, this Council says that we do not want retrenchment in this direction, then certainly the Minister would, I submit, be only too glad to carry out the recommendation of this Council.

Now, with regard to the funds from which the recommendation can be carried into effect, it was announced by the Honourable the Finance Member that, so far as education was concerned, if any surplus funds would be available at the end of the year, they would be taken into account for giving more money for education.

An HONOURABLE MEMBER: But there was not the Compulsory Education Bill then.

Rao Bahadur R. R. KALE: Well, so far as primary education is concerned, we have now passed the Entertainments Duty Bill, which was not then passed, but thrown out. I only want to point out to the Council that circumstances have changed since then. Another thing is, by the time the scheme for primary education is ripe there will be a surplus in the revenue to meet the demand of primary education. But, so far as the present circumstances go, it seems to me there is a reserve which this Council itself has sanctioned of Rs. 20,00,000, out of which Rs. 6,61,000 is the reserve with the transferred departments, and after the lapse of seven or eight months up till now I am told that very little has been spent out of that reserve so far as the transferred departments are concerned. This reserve is intended to meet demands which arise and which

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have to be satisfied. We had before us the instances of supplementary grants in which Government was pleased to ask for more in order to meet supplementary estimates out of the reserve. I submit, therefore, that out of the reserve at the disposal of the transferred departments this amount may be supplied. I would point out to the Honourable Minister that another source has been made available to Government in the transferred departments. Now that tolls are re-imposed, an additional amount of nearly Rs. 4,00,000 is estimated to be received from this source of income. That will go to the Public Works Department, which is a transferred department. So any amount from the reserve at the disposal of the Public Works Department owing to this source of income can be obtained for purposes such as I am mentioning. It is from that point of view that this is a new source of income, which was not in the budget on the income side at that time—it was not being enforced then. Since June last these tolls have been re-imposed and an amount of Rs. 4,00,000 is expected to be realised from this income. So, this is additional income which has come into the coffers of Government which was not in the budget. Therefore, so far as the transferred departments are concerned, you have an additional source of income added to them.

Further, Sir, I am told that certain schools, both secondary and primary, have refused grants on the ground of their being schools which have joined the non-co-operation movement, and the total amount of grants paid to those schools comes to Rs. 30,435. I understand 17 secondary aided schools have refused Government grants. Further, there are also aided primary schools which have refused grants, and the number of such schools is 232; and there have been also certain Mulla schools, about 317, which have also refused Government grants. Of course, the total amount that can be saved by the refusal of these schools to accept the grants which they would have otherwise received will also be a saving to the Government. Under these circumstances, therefore, and seeing that nearly six or seven months have elapsed of the financial year and still there is a sufficient amount at the disposal of Government in the reserve, I submit, Sir, that it would be pure justice to continue the same grants to the aided institutions which, Sir, would have been paid to them except for the undertaking which Government gave to the Council of carrying out retrenchment in regard to education along with other departments. Sir, again there is a sort of promise given by Government, namely, that one-third of the expenditure of these institutions will be given by Government. On that understanding the private aided schools framed their budgets; on that understanding they have been paying their servants their salaries. In these days of high prices, when Government school teachers have got their increases, these aided school teachers have had to go without increases in salary, because the aided schools have no resources in the same way as Government have additional resources at their disposal. In fact, the aided schools were asking for raising the limit of their grants from one-third to one-half and they were expecting to get that grant, so that they could improve the salaries which these self-sacrificing teachers up to now were receiving. When those were the circumstances, there came the circular of Government. The circular is very guardedly worded and says that in view of the present financial position of Government, the grant would not be more than one-fourth the expenditure. When that sort of circular comes, what will be the position of these secondary schools? They have made their budgets for their teachers and other matters on the strength of their original calculations based upon the amount which

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they have been getting for so many years from Government. Would it not be a sort of a breach of faith on the part of Government to reduce the grant to one-fourth so suddenly? I submit that it is pure injustice to reduce these grants in this manner. These aided schools have been in existence for so many years that they are already doing a very useful work—they are very economically managed as you can easily see by comparing the amounts which Government spend on their own schools with the budgets of these aided schools. The expenditure per pupil on secondary education as carried on by Government is Rs. 83, out of which Rs. 52 is borne by Government, whereas in the case of aided schools, out of an expenditure of Rs. 63, only Rs. 20 is paid by Government. Really speaking, these aided schools are helping Government in carrying on the education of the people which should really have been carried on exclusively by Government themselves, and in view of the very excellent way in which these aided schools are operating, I submit that the Council will be well advised in passing this resolution.

Rao Saheb HARILAL D. DESAI (Ahmedabad City): Mr. President, I have great pleasure in supporting this resolution. I am in charge of a high school in Ahmedabad as honorary secretary; it was started about thirty years ago by public subscription to supply a school for students who could not be admitted to the Government high school, and I know that if the grant is reduced from one-third to one-fourth, the school will be losing more than Rs. 300 per month, because the school is already being run at a loss on account of the non-co-operation movement and it will have to suffer a great deal more. The same is the case with several other schools of that character and when these schools have been helping Government in a great way towards secondary education, Government ought to consider the case of these aided schools and this House ought to help by accepting this resolution.

Sardar V. N. MUTALIK: I move that the question be put.

The Honourable the PRESIDENT: I accept the closure.

The Honourable Mr. H. S. LAWRENCE: May I have a word, Sir, as the resolution affects the finances of the Government?

The Honourable the PRESIDENT: I withdraw the closure.

The Honourable Mr. H. S. LAWRENCE: Mr. President, the last honourable member from Satara who spoke, mentioned, if I understood aright, that there was some additional revenue at the disposal of Government from which additional grants might be made for this purpose. While I do not wish to depreciate in any degree the good work of these schools which the honourable member from Satara dilated upon and the great demand that there is for such schools, I should like to say just one word of warning in regard to any optimism that may be felt as regards our financial position. I did not quite gather the purport of the honourable member's reference to our revenues, but I think he suggested that we are in for some kind of a windfall somewhere. The position at present, owing to the holding off of the rain which is so urgently required for *rabi* crops, is far from favourable. The eastern Deccan is in a very bad condition—some sporadic showers of rain are falling, which may preserve the rabi crops to some extent from complete ruin,—but at the present moment the prospects of a really good *rabi* season are scanty. If we do not get a good *rabi* season, the immediate result will be a great falling off in land revenue. That is the main point which I lay before this Council, that we cannot assume that we shall have

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such large balances at the close of the year as to justify this Council in recommending Government to be more liberal and generous in their grants for higher.....

An HONOURABLE MEMBER : Not higher, but secondary.

The Honourable Mr. H. S. LAWRENCE : Secondary education is higher education. As I was saying, the main point which I wish to put before this House is that we cannot assume that we shall have such large balances at the close of the year as to justify this Council in recommending Government to be more liberal and generous in their grants for higher education than was the intention of this House at the time when they passed the budget. At that time this House was fully seized of the needs of this secondary education and it acquiesced more or less cheerfully in the programme that was then formed for their information by the Honourable Minister for Education. If the season should prove much more prosperous than the present indications suggest to us, then no doubt, especially at the time of preparing the budget next year, this House may be in a better position to ask for more liberality and generosity on the part of Government, but at the present moment I merely suggest to the House that it is a little premature for them to feel that they are justified in incurring more expenditure than is absolutely necessary. I heard one of the honourable members who spoke earlier saying that I personally, as Finance Member, am responsible for making some offer of additional revenue which was accepted by the Honourable Minister on behalf of the House. I am afraid the honourable member's memory somewhat misleads him. You remember, Sir, that when we were discussing the question of retrenchment there was a certain section of the House which was prepared to take a particular line of action and I said, if we had additional revenues, I would be very glad to recommend further expenditure from those additional balances. The Honourable Minister for Education was the only member of the House who said " Hear, hear ", but the rest of the House rejected my offer with contumely.

Mr. J. C. KER : Mr. President, at the time this reduction was made it was forced upon Government by the Council who considered that in some way or other Government's expenditure must be reduced by 60 lakhs of rupees. The Council did not pause to consider what the result of this decision might be. In the end the Government accepted the decision of the Council that it should be equally distributed among all departments. The Educational Department with other departments had to make a reduction to the extent of 14 lakhs. If you make a reduction in the Educational Department, it must fall on either university education, or secondary education or primary education. University Education cannot come in for any reduction as the grant is a comparatively small one ; primary education cannot come in because the Legislative Council considers it to be of the greatest importance. By a process of elimination the biggest reduction had to be made in secondary education. Among secondary schools we have those which we manage ourselves, and those which we aid. No large reduction could be made with regard to schools which we manage, and so reduction had to be made in the grants we give to aided schools. The Educational Department, therefore, cannot be held entirely responsible for the policy of reduction in the grants to aided schools ; it was the Council that decided that the 60 lakhs reduction should be made equally under the various heads. Now it seems that the Council has changed its mind, not only with regard to education but even with regard to police. A distinguished member of this

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House has even been writing to the press that expenditnre on the police should be increased. The main question that now arises, however, is whether this amount is available from the expenditure side of the budget as already reduced by 60 lakhs. It is not possible to meet the expenditure from the revenue side of the budget. No honourable member has suggested the source from which this expenditure can be met. Speaking as Secretary in the Educational Department, I should be very glad if this extra amount for expenditure on scondary education could be made available, but owing to the position which has been created by the Council, it does not seem possible. For this reason I must oppose the resolution.

Mr. J. CRERAR: Mr. President, when I first saw this resolution on the agenda I assumed that it was a matter with which the Home Department would have little concern. But the arguments advanced by my honourable friend from Satara raise a very wide issue. That has been touched upon by my honourable friend the Secretary for the General Department. I wish to make one or two very brief remarks so far as the Home Department is concerned. It has been pointed out by my honourable friend, the Secretary in the General Department, that a reduction had to be made in the grants-in-aid to secondary schools in view of the decision of the Council at the last budget meeting. To the 60 lakhs reduction the Council attached the express condition that it should be *pro rata*. I venture to say—I express my personal opinion—that this decision was arrived at without any regard to the difficulties of the various departments and the interests of public administration. The reduction *pro rata* had to be borne even by those departments whose expenditure is not of an elastic nature. The Home Department is primarily responsible for law courts, for police and jails, and had to bear this reduction although its expenditure to a large extent is a very rigid one. A very serious reduction in the expenditure on law courts, police and jails had to be made. That this reduction has already very considerably endangered public security is a matter of public knowledge which has been admitted by more than one honourable member of this House.

Rao Saheb HARILAL D. DESAI: Has this anything to do, Sir, with the merits of the resolution ?

The Honourable Mr. M. H. W. HAYWARD: That is not a personal explanation.

The Honourable the PRESIDENT: It has relevancy to the subject. As the resolution proposes financial arrangements, the Home Secretary is pointing out the inconvenience and the serious embarrassment that will be caused if this resolution is accepted.

Rao Saheb D. P. DESAI: Is it the intention of the Government to talk out this resolution ?

The Honourable the PRESIDENT: The honourable member need not be under any such apprehension. Honourable members wanted to make up for the 1½ hours taken up by Government yesterday. They can go on till half past seven. I do not think there is any intention on the part of the Government to talk it out.

Mr. J. CRERAR: My honourable friend the Deputy President and my honourable friend from Kaira, Rao Saheb Dadubhai Desai, failed to understand my point of view. I am endeavouring to point out the inevitable consequences

[Mr. J. Crerar]

of the decision arrived at at the budget time, and how certain essential services of Government have been very seriously impaired. One honourable member, whose candour and honesty I recognise, confessed that he was labouring under considerable doubts as to whether this insistence on so rigid an economy without consideration of the most desirable directions on which that economy could be effected was really a very sound decision. Well, Sir, my argument has been that the public services for which the Home Department is responsible has suffered more than any other department of Government from this rigid economy. Now, the situation is this: that if this resolution is passed, the Legislative Council will be going back on the understanding arrived at at the last budget meeting. If they wish that understanding to be abrogated altogether, and if they are prepared to leave it to Government to carry out such economies as are reasonable and compatible with efficiency, then I have nothing further to say. But if they want to carry out only a part of that understanding and to benefit specifically a particular department, then I must strongly protest against it. Let that agreement be acted up to entirely or let it be abrogated altogether. If it is abrogated, then the Government, the public and the Council will know where they are. If it is to be acted upon, then I say that those who are responsible for the administration of other departments of Government should be treated impartially. Otherwise it will seriously prejudice the public services in the other departments without any corresponding benefit to Government.

Mr. P. J. MEAD: Mr. President, I wish to assure my honourable friend from Kaira that I have no intention of talking out this resolution. I wish to offer a few remarks on the reserve which I understand it is proposed to draw upon in order to meet this educational grant. That reserve, Sir, as the Council were informed, is intended for unforeseen expenditure. Definite allotments were made in accordance with the decision of the Council and an undertaking was given to this Council that Government would only draw on the reserve with the permission of the Council in the case of any unforeseen expenditure, and if they chose to draw for expenditure which was of an emergent character the full facts would be placed before the Council. Now, I submit that it is obvious with regard to that understanding that if we now desire to go back on the budget provision for education and draw on the reserve, not to meet any unforeseen expenditure but to increase expenditure on which we have definitely decided, this will fall under the head of appropriation. It has been ruled, I understand, that there is no objection to the present motion, but in fact this is a recommendation to Government to make an appropriation which can only be made on the recommendation of the Governor.

Now, a further point has been raised. I regret that owing to the fact that this particular motion stands as No. 2, I had not the slightest conception that the motion would be allowed to be moved in this session and it has been quite impossible for me to prepare and give to the Council the figures which they are entitled to have. I cannot say off-hand what the present balance of the reserve is, but what I can say is that it is not an inexhaustible mine. There is already a deficit of two or three lakhs on account of excise compensations which must be met, and further it was the intention from the very outset that this fund should not be used up fully if it could be avoided. Now, it is obvious that, if anything, revenue is not likely to come up to the full extent anticipated and expenditure is not likely to be kept down as we desired. Therefore, there is every reason that we should husband our resources as far as possible. The

[Mr. P. J. Mead]

Council knows the great importance of our closing balance against which we have borrowed not only for development schemes in Bombay, but for every form of expenditure for which capital can be borrowed. We have got recently the four-monthly figures showing the expenditure and revenue up to date. I must apologise to the Council for not giving them the exact figures, but I had no warning that this resolution would come up to-day. But I may tell them that the four-monthly figures are not reassuring. The Honourable the Finance Member has made it obvious that the revenue under various heads is likely to fall distinctly short of what was anticipated, so there is every reason for seeing that not a single pie of that reserve is spent on an object for which expenditure has been specifically curtailed in accordance with the wishes of this Council.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Mr. President, I shall be brief as time is precious. With reference to the explanation offered from the official benches, may I enquire whether the estimated opening balance on the 1st April has stood at the same figure which was put before the House at the time of budget discussion? I know, Sir, that when this cut of 60 lakhs was promised the estimated opening balance on the 1st April was put down at a particular figure. May I ask the Honourable the Finance Member and the other members on the benches opposite whether that balance is not better by at least 40 lakhs? If that is so, let the promise made by the Honourable the Education Minister that the matter is being further considered be taken into account. The grant-in-aid may not be paid now, but let there be a distinct promise made that if it turns out that there is a sufficient balance after making a cut of 60 lakhs, if the times prove more auspicious, then secondary education would be given preference. That promise has already been made in the answer given by the Honourable the Education Minister in reply to a question from my honourable friend from Bombay:

"A net reduction of Rs. 4,05,000 was made in the budget allotment for grants-in-aid to secondary schools and it was proposed that all supplementary grants to these schools should be withheld: while the ordinary grants should be reduced by about 25 per cent. on the average. The matter is however being considered."

That means that the Government in this answer has held out a promise that the matter had not been finally settled, but was still under consideration. All that I want to say is this that the ingenious arguments that are now being advanced by my honourable friends on the opposite benches appear to me to go behind this deliberate judgment which is given by way of an answer. What I say is this, that if the understanding is kept, all the departments *pro rata* suffer by the cut which has been made, in order to improve the balance and bring it up to a particular figure which is considered to be very safe indeed. That saving is to be put into that still for bringing it up to 2 crores. I am speaking only from memory and am not able to give exact figures just as the Chief Secretary was not able to give figures. I am putting it, Sir, whether the cut has not been already made. It is possible that the balance may fall short a little and a large amount will have to be spent in famine operations, but already we have made provision by way of famine insurance for which we keep aside Rs. 63 lakhs every year. The only difficult portion of the problem is that Land Revenue has been estimated at a figure which may be lower than what it has actually been estimated. But I am asking a pointed explanation whether our opening balance has not been better to the extent of Rs. 40 lakhs before the cut of Rs. 60 lakhs has been effected.

[Rao Bahadur G. K. Chitale]

To my mind, Sir, let the promise be made that if the balance improves, secondary education will be given preference, if necessary, in order that it may not be strangled.

Mr. P. N. ADHAV (Satara District): Mr. President, on hearing the several honourable members who have spoken before me, I find we have come to a very serious question. I have more than once declared in this House that we have been applying to the Director of Public Instruction for opening new schools for the last three years, and we are not getting a scrap of a rupee to open a new school. I have asked questions after questions, and I have been told that no provision can be made for opening new primary schools year after year only on the ground that there are no funds available, and no provision can be made in the budget. Now, if you are going to consider this question sympathetically, there is the drain on the budget of nearly Rs. 4,25,000, because that is the amount that the Honourable Minister has been able to reduce as regards secondary education, as shown in the final issue of the budget. Of course, I admit that all sorts of education ought to have the fostering care of Government, but primary education has the first claim. The Satara district is wanting hundreds of schools, and has been praying for the last two or three years, and there are about 200 schools which are undermanned, and for which Government is not in a position to provide the funds. When such is the state of affairs, I do not know where we are, and how the appropriation is going to take place. I should be happy if Government could make it their first object to provide primary education, and secondary education and the grants-in-aid for that purpose be the secondary object. With these words, I object to this resolution.

The Honourable Mr. M. H. W. HAYWARD: Mr. President, I must express my surprise that a motion of this kind should have been brought before this House. It is practically a motion to reopen the understanding which was arrived at during the discussion on the budget in the sessions in Bombay. I feel it is my duty, as the Member of Government who was then Leader of the House and who was closely connected with the settlement, to enter a most emphatic protest against this proposal emanating from my honourable friends opposite. I must point out that if that settlement is to be reopened, it ought only to be reopened with the full consent of all members of this House. It would, in my opinion, be a breach of faith if honourable members, at the end of a session, in a thin House, when many of those very closely interested in that settlement were absent, were to press such a resolution upon the House.

The Honourable the PRESIDENT: That is just what I wanted to understand. The more the discussion advances, the more it looks to me like a tangled thing. I have been still trying to find out whether this motion is in order or not. (Honourable Members: No, no.) It is easy to say no, but my difficulties are of such a character that I have to reconcile the Standing Orders with one another. It is not an easy job. Is this motion inconsistent with the decision which was arrived at during the budget discussion?

The Honourable Mr. M. H. W. HAYWARD: I submit, Sir, that this motion is distinctly and directly contrary to the settlement which was arrived at. That settlement was that there should be a cut of Rs. 60 lakhs, and that it should be made proportionately from the various departments of Government. This resolution.....

The Honourable the PRESIDENT : Is that assented to ? I am sorry to interrupt the Home Member. If I clearly find that there is anything in this resolution, which is contrary to the Standing Orders, I cannot put the question.

The Honourable Mr. M. H. W. HAYWARD : I quite recognise that, Sir.

The Honourable the PRESIDENT : At the time the budget was passed, some arrangement was arrived at by the Government with the House. Into the merits of it I cannot go. But if this is a motion which upsets the decision arrived at during the budget discussion, then I should say that a recommendation from the Governor is necessary for the purpose of reopening it all. That is all that I want to say. I am sorry to interrupt the honourable member, but my difficulties are still unsolved.

The Honourable Mr. M. H. W. HAYWARD : I submit, Sir, that the position as explained by you is perfectly correct, and I submit that it would be irregular for any further discussion to proceed on this matter in this House. I would ask for a definite ruling on this point, before I proceed with my remarks.

The Honourable the PRESIDENT : Will the Honourable the Home Member be good enough to proceed ? Then I shall be followng him. Whether I shall find myself in deeper waters or out of it, I cannot say, because the Standing Orders and Rules are drawn up in such a way that it is very difficult for me to make up my mind without full discussion. Therefore, at the outset I said this resolution was on the border line and I have allowed the debate. I will decide finally as the speeches go on.

The Honourable Mr. M. H. W. HAYWARD : I am, in this respect, in the same difficlty as was pointed out by my honourable friend the Chief Secretary. He was not aware any more than I was aware that this particular motion would be permitted to be argued to-day in this House. If I had been aware, I would have looked up the record and the discussion which took place at the budget, and I believe I should have been able to satisfy you, Sir, without any difficulty that it was distinctly a part of the understanding that Rs. 60 lakhs should be distributed proportionately between the various departments of Government. I believe that that would appear.....

The Honourable the PRESIDENT : Let us go step by step, instead of merely making remarks : Let me see : there was an understanding. I take cognizance of that. There was an understanding and in consequence of that understanding all the budget decisions were arrived at.

The Honourable Mr. M. H. W. HAYWARD : It was in consequence of that that the Rs. 60 lakhs cut was made and divided proportionately according to the budgeted expenditure between the various departments of Government. I believe I could have pointed out a reference to it in particular in the speech of Mr. Jehangir Petit.

The Honourable the PRESIDENT : The rule is, if there has been a discussion upon a particular understanding and debate has followed and if any decision is arrived at, the Speaker in the House of Commons says that the trend of the discussion as a result of that understanding must be regarded as a concluded debate. I am trying to follow the practice of the Speaker of the House of Commons.

The Honourable Mr. M. H. W. HAYWARD : I can point to a strong piece of evidence that that was the understanding. It is this, that that understanding has been actually carried out on the document which was just now in

[Mr. M. H. W. Hayward]

the hands of the Honourable Member opposite. Government have actually divided that Rs. 60 lakhs proportionately as there shown among the various departments of Government. This resolution proposes to set that division aside. It is contrary to the decision reached at the budget discussion by this House.

The Honourable the PRESIDENT: The argument on the other side is that the grant to the secondary schools was to be a certain figure, but by some departmental action it is now cut down.

The Honourable Mr. M. H. W. HAYWARD: The reply to that is that the demand had to be reduced by Rs. 13 lakhs in the Educational Department and though the distribution of the Rs. 13 lakhs was left entirely to the Honourable Minister in charge of that transferred department, it was not practically possible to make that cut in any other manner than it has been made; as stated by the Secretary in that department, it has been recognized that primary education has the primary claim—the primary education of the masses who cannot pay for it themselves—and that secondary education which is sought largely, if not entirely, by those who are in a position to pay for it has only the secondary claim and ought to be paid for largely by those persons who are able to pay. It is, indeed, Sir, with the greatest surprise that I have listened to the proposals put forward to-night in this House, that monies proposed for primary education should be diverted to secondary education. (Honourable Members: No, no; the budget says so). My honourable friends shake their heads and say, no, no. Let me ask them what they mean then by suggesting that the entertainment tax should be devoted to secondary education. I protest, Sir, that that would be a distinct breach of faith because the bill for the entertainment tax was introduced for the purpose of paying for compulsory primary education and has for that purpose been approved by the unanimous vote of this House. Compulsory education has been accepted as necessary. What does that mean, Sir? Does that mean merely a continuation only of the present primary education? Not at all. It means additional expenditure over and above the present expenditure on primary education. My honourable friends opposite say, no, no! They will not touch primary education, but they will nevertheless take the proceeds of the entertainment tax, a tax that this House has approved for the express purpose of primary education, and they will devote it to secondary education! (Honourable Members: No, no) I submit, Sir, that to make such use of the entertainment tax would be a distinct going back upon the resolutions only a few days ago unanimously passed by this House in favour of compulsory education and the provision of the extra money needed for that extra primary education by an entertainment tax. I submit, therefore, that this present resolution in the form of a mere recommendation is nevertheless practically a resolution for re-appropriation of monies, going back upon the budget decision reached at the budget sessions by this House and also going back upon the decisions reached only a few days ago even at this session that compulsory education should be provided for by an entertainment tax. I submit, Sir, if the House thinks fit to go back upon these solemn decisions arrived at after very full discussions, if they are prepared to go back upon them and to have a redistribution of the revenues in favour of one department, then, Sir, I submit that a general re-distribution must be ordered in respect of all the departments of Government. It has been with the greatest difficulty that the retrenchments necessary have been made in

[Mr. M. H. W. Hayward]

particular in the public services under the Home Department. We have had to reduce expenditure hitherto deemed essential on our courts, jails and more particularly upon our police. We have done so notwithstanding urgent requests from the public not to make those reductions. We have had recently, as is perfectly well known to this House, a serious outbreak of dacoities in Gujarat. We have to the best of my belief made arrangements which will effectually stop them. The operations of the next two or three months, it is our hope, will satisfactorily settle these dangerous gangs of dacoits. But they will require money. (An Honourable Member : Have a supplementary grant). The supplementary grant will go a certain way. It is probable, however, that they will cost more. If there is to be a re-distribution of revenues, then it is most urgent that there should be a reconsideration of retrenchments in police. We must take necessary steps to protect people from the depredations against the law-abiding and innocent in Gujarat. It is not only so in Gujarat, but also in Sind. There have been extensive reductions of police in Sind which have been strongly opposed by honourable members from Sind. I submit therefore, Sir, that this resolution, this motion, ought to be ruled out of order on the ground that it goes back on the resolutions passed at the time of the budget, and that it goes back on the resolutions only just passed with reference to compulsory education, and the entertainment tax, and that if it is nevertheless allowed, then it must be allowed on the understanding that the whole settlement be reopened and the revenues redistributed between the various departments of Government.

The Honourable the PRESIDENT : I have followed the debate very carefully and have gone into the various authorities on the point of order raised. The conclusion to which I have come is that I have no right whatever to put this question. The principle is this : that if there is an understanding in the nature of a pledge given by Government to the House and upon that understanding a decision is arrived at on the budget, then that understanding becomes a part of the decision of the House and the Government are bound to redeem the pledge. As has been said by no less an authority than Lord Balfour, when he was in the House of Commons, all such pledges given to the House must be faithfully kept, and the Speaker also has imposed that rule on a question of order. That being so, the budget having been framed and Government having been bound to carry out the pledge and given an undertaking, I asked myself the question what was the undertaking which formed the basis of the budget decision in the Council itself. That is quite clear from the discussions and particularly the speech of the Honourable the General Member, Sir Chimanlal Setalvad, who said :

> "Therefore, what we suggest to the Council is this, that, after the consideration that we have given to the matter, we are in a position to tell you what sum we think can be reduced during the year out of this budget, and when the Council has passed that, it will mean that they have got their hold on it, that the budget has been reduced by such and such an amount, and then we will see how that reduction is to be distributed among the various departments. And, with all that, I am further in a position to assure this Council "—there comes the pledge—an assurance by a Member of the Government is an undertaking—and if that pledge or undertaking is departed from, a vote of censure on Government can be brought in the House—" that the best way of distributing the particular reduction that I would mention in a minute would be to apportion that reduction *pro rata*, on the expenditure out of revenue in the various departments controlled by the Members and the Ministers. "

The budget grant was passed upon that assurance and pledge. Government and the Council are bound by that pledge. Now the question arises, whether the whole thing is to be reopened. Then comes the rule made under

[The President]

the Government of India Act: "No motion for appropriation can be made except on the recommendation of the Governor communicated to the Council". Therefore, I have no hesitation whatever, after carefully listening to the speeches, *pros* and *cons*, that this question is one which I cannot put. In support of that, I follow what is stated in May's "Parliamentary Practice."

"Under the practice thus established, every motion which in any way creates a charge upon the public revenue, must receive the recommendation of the Crown, before it can be entertained by the House. Unless the recommendation of the sovereign enjoined by these standing orders be signified, in the manner mentioned in this paragraph, the Speaker cannot put the question on a motion which comes within the scope of these standing orders. Accordingly, if any motion is offered to be moved, whether in the House or in a committee, which requires, but fails to receive, the recommendation of the Crown, it is the duty of the chair to announce that no question can be proposed upon the motion."

That, I think, is within the purview of our rule which I have already read out. Therefore, I rule this resolution to be out of order as one which I have no authority whatever to put to the Council.

Under the authority vested in me as the President of this Council by section 72B, sub-section (3), of the Government of India Act, and under Standing Order II, clause 2, I now do adjourn the meeting and sitting of this third session of 1922 to 2 p.m. on Monday, the 4th of December 1922, at Bombay.

## APPENDIX A.

*Statement showing the number of Mahomedan students receiving scholarships in Primary and Secondary Schools and in Colleges in the Presidency.*

| No. | Division. | Primary Schools. | Secondary and High Schools. | Colleges. |
|---|---|---|---|---|
| 1 | Central Division .. .. .. | 115 | 117 | 10 |
| 2 | Bombay ,, .. .. .. | 65 | 69 | 4 |
| 3 | Northern ,, .. .. .. | 303 | 97 | 9 |
| 4 | Southern ,, .. .. .. | 94 | 93 | 8 |
| 5 | Sind .. .. .. | 556 | 320 | 44 |
| | Total .. | 1,133 | 696 | 75 |

## APPENDIX B.

*Statement showing Deputy Collectors and Mamlatdars belonging to the Maratha and other backward communities.*

*Central Division.*

| Deputy Collectors. | | Mamlatdars. | |
|---|---|---|---|
| Caste. | | Caste. | |
| Maratha .. .. | Nil | Marathas | .. 3 (of whom one is acting). |
| Lingayat .. .. | 1 | | |
| Raddi .. .. | 1 | Sali | .. 1 |
| Mahomedan .. .. | 1 | Mahomedans | .. 5 (of whom one is acting). |
| | 3 | | 9 |

*Southern Division.*

| Caste. | | Caste. | |
|---|---|---|---|
| Maratha .. .. | Nil | Marathas | .. 2 (of whom one is acting). |
| Lingayats .. .. | 2 | Lingayats | .. 5 (do.) |
| Nadore .. .. | 1 | Raddi | .. 1 |
| Mahomedan .. .. | 1 | Vyasha | .. 1 (acting). |
| | | Mahomedan | 1 |
| | 4 | | 10 |

## APPENDIX C.

*Excise Advisory Committees.*

Resolutions of the Poona City and Cantonment —.

### GOVERNMENT OF BOMBAY.

REVENUE DEPARTMENT.

Resolution No. 4309.

Secretariat, Fort, Bombay.

Dated the 24th July 1922.

Letter without date from the non-official members of the Poona City and Cantonment Excise Advisory Committees to the Honourable Excise Minister —Forwarding a copy of the proceedings of the meeting of the Excise Advisory Committees, Poona City and Cantonment, held on 24th January 1922; observing that all the resolutions were carried by a large majority; and requesting that Government may be pleased to give effect to them.

*Resolutions passed at the meeting of the Local Excise Advisory Committees, Poona City and Cantonment, held on 24th January 1922.*

1. That three country liquor shops out of the six in Poona City should be closed with effect from 1st April 1922. The following shops were accordingly suggested for closure :—Raviwar Peth, Mithganj and Narayan Peth ;

2. That the foreign liquor shop in Budhwar Peth be closed with effect from 1st April 1922 ;

3. That the hours of sale of all country liquor and foreign liquor shops in Poona City and Cantonment be from 4 p.m. to 7 p.m. (1st September to 28th February) and 4 p.m. to 7-30 p.m. (1st March to 31st August) ;

4. That all the liquor shops (country and foreign) be closed on all *public* gazetted holidays ;

5. That one shop in Poona Cantonment be closed. The Main Street shop was suggested accordingly for closure ;

6. That Government should exercise more efficient supervision over the quality of toddy sold in toddy shops, so that it should not be adulterated or sold when more than a day old ;

7. That the members of the Excise Advisory Committees be authorised to inspect liquor shops and make their remarks in the " Visitors' Book " ;

8. That all country liquor shops in Poona City and Cantonment be converted into " On " shops, as per the recent Resolution of Government ;

9. That Government should issue permits to respectable persons to preach temperance *near* liquor shops ;

10. That the strength of country liquor sold in Poona City and Cantonment should, with effect from 1st April 1922, be *only* 60° u. p.

* * * *

Government memorandum No. 4309-C. dated 11th February 1922 to the Commissioner of Customs, Salt and Excise.

Memorandum from the Commissioner of Customs, Salt and Excise No. 11-3 dated 21st February 1922.

Memorandum from the Commissioner of Customs, Salt and Excise No. 11-3 dated 6th May 1922.

Government memorandum No. 4309-C. dated 15th June 1922 to the Commissioner of Customs, Salt and Excise.

Memorandum from the Commissioner of Customs, Salt and Excise No. 11-3 dated 17th July 1922.

RESOLUTION.—Last year the Poona City Excise Advisory Committee recommended the closure of two out of the eight country spirit shops in the city, *viz.*, those at Kasba and Gadikhana. This recommendation was accepted by Government. At the meeting of the Poona City and Cantonment Committees held on 24th January 1922 the non-official members recommended the closure of three more out of the remaining six shops. The Collector and the Commissioner are opposed to this recommendation and Government agree with them. Six shops for a city having a population of over a lakh are not excessive.

2. The Budhwar Peth foreign liquor shop has been moved to Nana's Peth and no further action is required.

3. Up to 31st March 1921 the hours of sale of country spirit and foreign liquor in Poona City and Cantonment were 10-30 a.m. to 8-30 p.m. With effect from 1st April 1921 the closing hour was, at the instance of the City Excise Advisory Committee, changed to 8 p.m., in summer, *i.e.*, from 1st March to 31st August, and 7-30 p.m. in winter, *i.e.*, from 1st September to 28th February. The Excise Advisory Committees, Poona City and Cantonment, now recommend that the closing hour be fixed at 7-30 p.m. in summer and 7 p.m. in winter and that 4 p.m. be adopted as the opening hour throughout the year. The existing closing hours are earlier than in any other area and pending consideration of the report of the Excise Committee, Government think it advisable not to take action on resolution No. 3.

4. Since 1st April 1922 all liquor shops in Poona City and Cantonment have been closed on public gazetted holidays. The closing of foreign liquor 'off' shops on holidays serves no special object and the order regarding their closure has therefore been withdrawn.

5. As regards the so-called Main Street country spirit shop, it appears that it is not located in any part of Main Street, but in a bye-lane between that street and Centre Street in an unobtrusive place. The present premises have been built specially for the purposes of a liquor shop and are reported to be quite suitable. Government do not therefore consider it desirable to move the shop.

6. The Excise Department is alive to the necessity of exercising supervision over the quality of toddy sold and does what it can to prevent adulteration.

7. Government are unable to accept the recommendation in resolution No. 7 to the effect that members of Excise Advisory Committees should be authorized to inspect liquor shops and record their remarks in the "visitors' book."

8. Effect has been given to the Committee's recommendation to abolish 'off' sales of country spirit in Poona City and Cantonment.

9. The recommendation that permits should be issued to respectable persons to preach temperance near liquor shops cannot be accepted.

10. With effect from 1st April 1922 the maximum strength of country spirit allowed to be sold in the Presidency proper has been reduced from 30° to 40° u.p. Side by side the policy of reserving a certain number of shops for the exclusive sale of 60° u.p. spirit continues. The reduction from 30° to 40° u.p. is considered sufficient for the current year and compliance with the recommendation in resolution No. 10 that the only strength should be 60° u.p. has been deferred for the time being.

11. The Collector of Poona should be requested to communicate to the City and Cantonment Advisory Committees the orders passed in the foregoing paragraphs.

By order of the Government of Bombay
(Transferred Departments),

SHAMRAO D. MANKAR,
Under Secretary to Government.

G. R. No. 4309, R. D., dated the 24th July 1922.

To
The Commissioner of Customs, Salt and Excise,
The Collector of Poona,
The Deputy Commissioner of Salt and Excise, C. D.

# APPENDIX D.

## APPENDIX

*Statement of local board schools o*

| No. | Name of School. | Date of his appointment. | Date of discontinuance. |
|---|---|---|---|
| | | | *Karach* |
| 1 | Manjhu .. .. .. | 24 September 1914<br>2 January 1918 | 26 September 1916<br>1 June 1919 |
| 2 | Sann .. .. .. | 1 February 1916 | 30 June 1917 |
| 3 | Lakha .. .. .. | 2 June 1916<br>18 February 1918 | 8 August 1917 |
| 4 | Abad .. .. .. | 1 July 1919 | .... |
| 5 | Jherruck .. .. .. | 27 January 1916 | 1 November 1919 |
| 6 | Budhapur .. .. .. | 1 April 1920 | 30 October 1921 |
| 7 | Unerpur .. .. .. | 1 June 1912 | .... |
| 8 | Mullan .. .. .. | 13 May 1912 | 13 January 1914 |
| 9 | Mouledino Halo .. .. | 1 February 1918 | .... |
| 10 | Umar Dall .. .. .. | 15 December 1914 | 15 December 1920 |
| 11 | Kaim Jalbani .. .. .. | 21 April 1920 | .... |
| 12 | Ladiun .. .. .. | 1 March 1916 | 1 April 1917 |
| 13 | Kessa Hindu .. .. .. | 1 September 1919 | .... |
| 14 | Chach Golo .. .. .. | 6 April 1918 | 31 August 1919 |
| 15 | Kak .. .. .. | 1 May 1913 | 19 December 1914 |
| 16 | Mirpur Sakro .. .. .. | 16 September 1920 | .... |
| 17 | Jungshahi .. .. .. | 8 June 1920 | .... |
| 18 | Bano .. .. .. | 16 February 1918 | .... |
| 19 | Rahoth .. .. .. | 1 August 1919 | .... |
| 20 | Abral .. .. .. | 4 July 1919 | 3 September 1919 |
| 21 | Darro .. .. .. | 5 June 1912 | 22 October 1921 |
| 22 | Kath Bambhan .. .. | 13 April 1914 | 6 October 1915 |
| 23 | Bachal Gango .. .. .. | 1 October 1920 | 1 November 1920 |
| 24 | Thano Bolakhan .. .. | 1 May 1913 | .... |
| | | | *Hyderabad* |
| 1 | Widh .. .. .. | 11 August 1919 | .... |
| 2 | Sahival .. .. .. | 1 January 1921 | .... |
| 3 | Dito Kalro .. .. .. | 12 May 1920 | 1 December 1921 |
| 4 | Rajohisamani .. .. .. | 1 May 1920 | .... |
| 5 | Hussainkhan Laghario .. .. | 18 April 1921 | .... |
| | | | *Nawabshah* |
| 1 | Jam Sahib .. .. .. | 27 September 1915 | 17 January 1922 |
| 2 | Chatanshah .. .. .. | 15 December 1915 | 20 November 1917 |
| 3 | Moro .. .. .. | 21 September 1914 | .... |
| 4 | Malak .. .. .. | 1 December 1915 | .... |

D.

*which the Mullas are attached.*

| Reason of discontinuance. | Number of boys at the time of his appointment. | Number of boys brought by the Mulla. | Remarks. |
|---|---|---|---|
| *District.* | | | |
| Resigned .. .. | 19 | 2 | No material progress in attendance. |
| Do. .. .. | 9 | .. | |
| Do. .. .. | 39 | .. | There was remarkable decrease during the time the mulla worked there. |
| Do. .. .. | 34 | 5 | |
| .... | .. | 21 | All the boys came from his private school. |
| Discharged .. .. | 51 | .. | Owing to decrease in numbers. |
| Resigned .. .. | 18 | 7 | Gradually all left. |
| .... | 15 | 45 | The school has flourished owing to the Mulla. |
| Discharged .. .. | 34 | 4 | Did not help in increasing the attendance, hence discharged. |
| .... | 21 | 26 | |
| Discharged .. .. | 30 | 4 | Resigned as he wanted to be assistant teacher. |
| .... | 25 | 12 | |
| Discharged .. .. | 32 | 4 | Discharged due to decrease in attendance. |
| .... | 27 | 10 | |
| Discharged .. .. | 29 | .. | He did not help in increasing the attendance. |
| Discharged .. .. | .. | .. | Information not available. |
| | | | Discharged as he did not increase attendance and a qualified Mahomedan was available and was in charge of the school. |
| .... | 32 | 7 | |
| .... | 57 | 5 | |
| .... | 38 | .. | |
| .... | 56 | .. | |
| Discharged .. .. | 17 | 2 | He was useless and did not work on account of non-co-operation. Owing to decrease in numbers. |
| Resigned .. .. | 97 | .. | |
| Discharged .. .. | 35 | .. | |
| Resigned .. .. | 50 | 3 | |
| .... | 40 | 10 | |
| *District.* | | | |
| .... | 14 | 1 | |
| .... | 22 | 5 | |
| .... | 14 | .. | |
| .... | 31 | 2 | |
| .... | 25 | 2 | |
| *District.* | | | |
| Owing to numbers not having increased .. .. | 25 | .. | |
| Died .. .. | 67 | .. | |
| Continues .. .. | 146 | 8 | |
| Do. | 75 | 13 | |

| No. | Name of School. | Date of his appointment. | Date of discontinuance. |
|---|---|---|---|
| | | | *Nawabshah* |
| 5 | Khadro .. .. .. | 1 May 1916 | .... |
| 6 | Deh. 22 .. .. .. | 1 June 1916 | .... |
| 7 | Deh. 24 .. .. .. | 1 November 1915 | .... |
| 8 | Deh. 30 .. .. .. | 1 October 1920 | .... |
| 9 | Naushahro .. .. .. | 8 May 1912 | 17 June 1914 .. |
| 10 | Gajan Shul .. .. .. | 12 July 1919 | .... |
| 11 | Ghanghro .. .. .. | 29 October 1919 | .... |
| 12 | Kamaldero .. .. .. | 21 December 1920 | .... |
| 13 | Mahabardero Jatri .. .. | 9 May 1912 | .... |
| 14 | Min-Md-Sial .. .. .. | 4 September 1920 | .... |
| | | | *Thar Parkar* |
| 1 | Tando Jan Md. .. .. | 24 January 1921 | .... |
| 2 | Diplo .. .. .. | 1 February 1921 | .... |
| 3 | Waghirji .. .. .. | 1 January 1919 | .... |
| 4 | Kathri .. .. .. | 10 May 1912 | .... |
| 5 | Deh No. 160 .. .. .. | 17 February 1920 | 30 November 1921 |
| 6 | Adam Jotar .. .. .. | 1 December 1919 | .... |
| | | | *Sukkur* |
| 1 | Chak .. .. .. | 15 February 1915 | .... |
| 2 | Ibrahim Mahar .. .. | 21 January 1921 | .... |
| 3 | Garhi Adushah .. .. | 24 August 1916 | .... |
| 4 | Chiman Sukhpur .. .. | 20 December 1920 | .... |
| 5 | Chodio .. .. .. | 18 January 1921 | .... |
| 6 | Pano Akil .. .. .. | 13 December 1916 | .... |
| 7 | Bhellara .. .. .. | 1 April 1918 | .... |
| 8 | Dad Loi .. .. .. | 16 October 1920 | .... |
| 9 | Mullasli .. .. .. | 1 September 1920 | .... |
| 10 | Chichro .. .. .. | 1 October 1913 | .... |
| 11 | Mouludi .. .. .. | 23 February 1917 | .... |
| 12 | Berri .. .. .. | 6 October 1920 | 9 July 1921 .. |
| 13 | Kot Mir Md. .. .. .. | 1 November 1920 | .... |
| 14 | Manghanwari .. .. .. | 21 October 1920 | .... |
| 15 | Hayat Pitafi .. .. .. | 8 September 1919 | .... |
| 16 | Mirzapur .. .. .. | 17 February 1921 | .... |
| 17 | Wallisabad .. .. .. | 21 January 1921 | |
| 18 | Daharki .. .. .. | 29 September 1920 | .... |
| 19 | Khambhra .. .. .. | 1 October 1920 | .... |
| 20 | Detha Bhaya .. .. .. | 27 September 1920 | .... |
| 21 | Raharki .. .. .. | 2 March 1921 | 1 October 1921 .. |
| | | | *Upper Sind* |
| 1 | Bhaledinoabad.. .. .. | 1 October 1917 | .. |
| 2 | Garhi Mahrab .. .. .. | 3 January 1922 | .... |
| 3 | Miranpur .. . .. | 20 December 1918 | .... |
| 4 | Garhi Khairo .. .. .. | 20 November 1919 | .... |
| 5 | Tajudero .. .. .. | 1 December 1920 | .... |
| 6 | Chhajra .. .. .. | 20 November 1920 | .... |
| 7 | Mouladad .. .. .. | 1 December 1920 | .... |

| Reason of discontinuance. | Number of boys at the time of his appointment. | Number of boys brought by the Mulla. | Remarks. |
|---|---|---|---|
| *District*—contd. | | | |
| Continues .. .. | 51 | 2 | |
| Do. .. .. | 53 | 8 | |
| Do. .. .. | 22 | 3 | |
| Do. .. .. | 22 | 7 | |
| Owing to numbers not having increased .. .. | 333 | .. | |
| Continues .. .. | 25 | 7 | |
| Do. .. .. | 30 | .. | |
| Do. .. .. | 53 | 3 | |
| Do. .. .. | 131 | 19 | |
| Do. .. .. | 47 | .. | |
| *District.* | | | |
| Is yet working .. .. | 80 | Not ascertainable. | |
| Do. .. .. | 91 | Do. | |
| Do. .. .. | 18 | Do. | |
| Do. .. .. | 48 | *Nil.* | |
| Mulla did not take interest. The H. M. too did not take interest. Mulla went away to Punjab and did not take up the work on his return. | 39 | Not ascertainable. | |
| Is yet working .. .. | 15 | *Nil.* | |
| *District.* | | | |
| .... | 130 | .. | |
| .... | 62 | 7 | |
| .... | 100 | 15 | |
| .... | 60 | 15 | |
| .... | 60 | .. | |
| .... | 131 | 50 | |
| .... | 90 | 20 | |
| .... | 42 | 10 | |
| .... | 40 | 10 | |
| .... | 60 | 12 | |
| .... | 41 | 5 | |
| .... | 24 | 3. | The number attending the school did not justify the continuance; hence he was discharged. |
| .... | 110 | .. | |
| .... | 60 | 12 | |
| .... | 102 | 8 | |
| .... | 88 | 10 | |
| .... | 37 | 3 | |
| .... | 115 | 9 | |
| .... | 37 | 5 | |
| .... | 50 | 6 | |
| .... | 50 | .. | No improvement in numbers; hence discharged. |
| *Frontier District.* | | | |
| Continues .. .. | 66 | 15 | |
| Do. .. .. | 30 | 7 | |
| Do. .. .. | 40 | 0 | Number maintained. |
| Do. .. .. | 72 | 5 | |
| Do. .. .. | 52 | 6 | |
| Do. .. .. | 20 | 10 | |
| Do. .. .. | 31 | 19 | |

| No. | Name of School. | Date of his appointment. | Date of discontinuance. |
|---|---|---|---|
| | | | *Upper Sind* |
| 8 | Jhanjh .. .. .. | 1 December 1920 | .... |
| 9 | Ghouspur .. .. .. | 10 December 1920 | 15 February 1922 |
| 10 | Khandhkot .. .. .. | 22 November 1919 | .... |
| 11 | Rasaldar .. .. .. | 1 October 1917 | 19 August 1921 |
| 12 | Chakarabad .. .. .. | 12 November 1917 | .... |
| 13 | Khanan Chackar .. .. | 15 May 1921 | .... |
| 14 | Lalkhan Jakhrani .. .. | 4 April 1921 | .... |
| 15 | Badani .. .. .. | 15 February 1922 | .... |
| 16 | Kashmore .. .. .. | 1 December 1919 | .... |
| 17 | Hajikhan Domki .. .. | 13 November 1919 | .... |
| 18 | Chhato Miani .. .. .. | 12 December 1919 | .... |
| 19 | Dur Md. Nahar .. .. | 9 April 1921 | .... |
| 20 | Umar Bhuto .. .. .. | 1 Mar 1922 | .... |
| 21 | Sanjar Bhati .. .. .. | 20 January 1920 | .... |
| 22 | Kote Nabi bux .. .. | 1 March 1919 | .... |
| 23 | Dhing .. .. .. | 1 January 1922 | .... |
| 24 | Sodho Banglani .. .. | 1 January 1919 | .... |
| 25 | Bahadurpur .. .. .. | 17 December 1920 | .... |
| 26 | Zangipur .. .. .. | 6 December 1920 | .... |
| | *Larkana District.* | | *Larkana* |
| 1 | Mirokhan .. .. .. | 18 August 1916 | .... |
| 2 | Karira .. .. .. | 27 December 1920 | .... |
| 3 | Lukman Sial .. .. .. | 1 January 1921 | .... |
| 4 | Murid Machi .. .. .. | 18 October 1920 | 25 January 1922 |
| 5 | Mehar .. .. .. | 22 December 1919 | .... |
| 6 | Butsarai .. .. .. | 7 August 1914 | .... |
| 7 | Thorah .. .. .. | 10 August 1918 | .... |
| 8 | Wagan .. .. .. | 3 April 1920 | .... |
| 9 | Areja .. .. .. | 20 May 1916 | .... |
| 10 | Naogoth .. .. .. | 19 June 1914 | .... |

| Reason of Discontinuance. | Number of boys at the time of his appointment. | Number of boys brought by the Mulla | Remarks. |
|---|---|---|---|
| *Frontier*—contd. | | | |
| Continues .. | 25 | 6 | |
| Resigned on 15th February 1922 .. | 43 | 17 | |
| Continues .. .. | 130 | 3 | |
| Discharged as more influential man became available .. | 30 | 12 | |
| Continues .. .. | 40 | .. | Number maintained. |
| Do. .. .. | 20 | 6 | |
| Do. .. .. | 27 | 1 | |
| Do. .. .. | 32 | 6 | |
| Do. .. .. | 85 | 0 | Number maintained. |
| Do. .. .. | 22 | 4 | |
| Do. .. .. | 30 | 0 | Number maintained. |
| Do. .. .. | 17 | 5 | |
| Do. .. .. | 31 | 6 | |
| Do. .. .. | 35 | 2 | |
| Left the village on 31st December 1919 .. .. | 43 | 0 | Number maintained. |
| Continues .. .. | 21 | 6 | |
| Do. .. .. | 30 | 3 | |
| Left the village on 16th December 1920 .. .. | 39 | 7 | |
| Continues .. .. | 27 | 4 | |
| *District.* | | | |
| .... | 24 | 39 | |
| .... | 22 | 0 | |
| .... | 15 | 7 | |
| .... | 30 | .. | On account of the closure of the school. |
| .... | 47 | .. | The number of Mahomedan learners has decreased by 16. |
| .... | 40 | 11 | |
| .... | 27 | 12 | |
| .... | 49 | .. | The number of Mahomedan learners has decreased by 4. |
| .... | 53 | 17 | Do. by 25. Owing to Non-co-operation since July last. |
| .... | 35 | .. | Do. by 16. |

## APPENDIX E.

*Statement showing the number of persons convicted in April and May 1922 at Mulshi Peta.*

| Section of the law under which convicted. | Mawalas. | | Others. | Total number of persons convicted. | Remarks. |
|---|---|---|---|---|---|
| | Males. | Females. | | | |
| 1 | 2 | 3 | 4 | 5 | 6 |
| 143, 147, 447 426, 427, I. P. Code .. | 22 | 1 | 47 | 70 | 16 were Khatedar Mawalas. |
| 323, I. P. Code .. | 1 | .. | 7 | 8 | |
| 188, I. P. Code .. | 51 | .. | 51 | 102 | 50 were Khatedar Mawalas. |
| Total .. | 74 | 1 | 105 | 180 | There were no Company's servants. |

## APPENDIX F.

*Statement showing the rates of revision settlement in each taluka by groups.*

| Name of Taluka. | Group No. I. | Group No. II. | Group No. III. | Group No. IV. | Group No. V. |
|---|---|---|---|---|---|
| | Rs. a. p. | Rs. a. p. | Rs. a. p. | Rs. a. p. | Rs. a. p |
| Sholapur .. .. | 1 13 0 | 1 10 0 | 1 5 0 | 1 4 0 | 1 2 0 |
| Barsi .. .. | 1 12 0 | 1 8 0 | 1 5 0 | 1 3 0 | ....* |
| Madha .. .. | 1 4 0 | 1 2 0 | .... | .... | ....* |
| Karmala .. .. | 1 4 0 | 1 2 0 | 1 0 0 | 0 14 0 | ....† |
| Pandharpur .. | 1 4 0 | 1 2 0 | .... | .... | ....† |
| Sangola .. .. | 1 3 0 | 1 2 0 | 1 0 0 | 0 14 0 | ....† |
| Malsiras .. .. | 1 10 0 | .... | .... | .... | ....‡ |

* Introduced in the year 1905-06.

† Now under settlement.

‡ Newly introduced.

## APPENDIX G.

*Comparative statement showing the annewari sanctioned, etc., in the Sholapur District.*

| Name of Taluka. | Number of Villages in which annewari was | | | | Total. |
|---|---|---|---|---|---|
| | 8 to 12 annas. | 6 to 8 annas. | 4 to 6 annas. | Below 4 annas. | |
| *1911-12.* | | | | | |
| Sholapur .. .. | .... | 152 | .... | .... | 152 |
| Barsi .. .. | .... | 123 | .... | .... | 123 |
| Karmala .. .. | .... | 5 | 7 | 112 | 123 |
| Malsiras .. .. | .... | 10 | 4 | 55 | 69 |
| *1912-13.* | | | | | |
| Sholapur .. .. | .... | 152 | .... | .... | 152 |
| Barsi .. .. | .... | 123 | .... | .... | 123 |
| Karmala .. .. | .... | 2 | 121 | .... | 123 |
| Malsiras .. .. | 11 | 6 | 14 | 38 | 69 |
| *1913-14.* | | | | | |
| Sholapur .. .. | 24 | 23 | 10 | 95 | 152 |
| Barsi .. .. | 123 | .... | .... | .... | 123 |
| Karmala .. .. | .... | 14 | 9 | 100 | 123 |
| Malsiras .. .. | .... | .... | .... | 69 | 69 |
| *1914-15.* | | | | | |
| Sholapur .. .. | 152 | .... | .... | .... | 152 |
| Barsi .. .. | 123 | .... | .... | .... | 123 |
| Karmala .. .. | 110 | 2 | .... | 11 | 123 |
| Malsiras .. .. | 61 | .... | 6 | 2 | 69 |
| *1915-16.* | | | | | |
| Sholapur .. .. | 152 | .... | .... | .... | 152 |
| Barsi .. .. | 123 | .... | .... | .... | 123 |
| Karmala .. .. | 123 | .... | .... | .... | 123 |
| Malsiras .. .. | 46 | 23 | .... | .... | 69 |
| *1916-17.* | | | | | |
| Sholapur .. .. | .... | 152 | .... | .... | 152 |
| Barsi .. .. | 123 | .... | .... | .... | 123 |
| Karmala .. .. | 14 | 109 | .... | .... | 123 |
| Malsiras .. .. | 69 | .... | .... | .... | 69 |
| *1917-18.* | | | | | |
| Sholapur .. .. | 152 | .... | .... | .... | 152 |
| Barsi .. .. | .... | 123 | .... | .... | 123 |
| Karmala .. .. | 123 | .... | .... | .... | 123 |
| Malsiras .. .. | 7 | 62 | .... | .... | 69 |
| *1918-19.* | | | | | |
| Sholapur .. .. | 26 | 98 | 17 | 11 | 152 |
| Barsi .. .. | 48 | 75 | .... | .... | 123 |
| Karmala .. | .... | 6 | 16 | 801 | 133 |
| Malsiras .. .. | .... | .... | .... | 69 | 69 |
| *1919-20.* | | | | | |
| Sholapur .. .. | .... | 28 | 124 | .... | 152 |
| Barsi .. .. | 123 | .... | .... | .... | 123 |
| Karmala .. .. | .... | 123 | .... | .... | 123 |
| Malsiras .. .. | .... | 69 | .... | .... | 69 |
| *1920-21.* | | | | | |
| Sholapur .. .. | 14 | 3 | 31 | 104 | 152 |
| Barsi .. .. | 44 | 55 | 8 | 16 | 123 |
| Karmala .. .. | .... | .... | .... | 123 | 123 |
| Malsiras .. .. | .... | .... | .... | 69 | 69 |

## APPENDIX H.

| | Name and designation of Subordinate. | Present age. | Pay Rs. | Pension Rs. | Necessity of employment. | Remarks. |
|---|---|---|---|---|---|---|
| | | | *Central* | *Division.* | | |
| | | Y. M. D. | | | | |
| 1 | Captain T. Todd, Custodian, Central Offices, Poona. | 80 0 23 | 200 | 240 | The services of a good custodian were found necessary. | Reported by the Executive Engineer to be still very fit and capable. |
| 2 | Mr. Krishnaji Sambhaji Sawant, Store-keeper, Dondaicha Sub-Division | 53 | 30 | 7 | No other suitable man was available though every effort was made to find one by the Executive Engineer. | He is an invalid Military pensioner and had experience of sub-divisional office work before he was appointed as Store-keeper. |
| | | | *Deccan Irrigation Division.* | | | |
| 3 | Mr. D. N. Kothawalla, Store-keeper. | 70 | 70 | .. | To obtain the benefit of an experienced man's services at a small additional expense. | Pension of Rs. 24-5-4 held in abeyance. |
| | | | *Electrical* | *District.* | | |
| 4 | Mr. Makhankhan, clerk, Karachi. | 30 | 75 | 9 | The man was selected by the Electrical Inspector in Sind, Karachi, among other applications received and was, therefore, appointed. | Both are Military men. |
| 5 | Mirzakhan, Peon, Karachi. | 26 | 22 | 6 | The man was appointed by the Electrical Inspector in Sind, Karachi, as the most suitable. | |

## APPENDIX I.

*Statement showing the sales of Foreign liquor for April, May and June 1921 and 1922 and of country liquor for April, May and June 1921 at Mahableshwar.*

| Name of month. | Foreign liquor (all kinds). | | Country liquor. | |
|---|---|---|---|---|
| | 1921. | 1922. | 1921. | 1922. |
| | L. P. G. | L. P. G. | L. P. G. | L. P. G. |
| April .. .. | 90 | 153 | 370 | |
| May .. .. | 87 | 420 | 328 | Shop |
| June .. .. | 36 | 223½ | 240 | closed. |

## APPENDIX J.

*Statement showing the sales of Foreign liquor for April, May and June 1921 and 1922 and of country liquor for April, May and June 1921 at Panchgani.*

| Name of month. | Foreign liquor (all kinds). | | Country liquor. | |
|---|---|---|---|---|
| | 1921. | 1922. | 1921. | 1922. |
| | L. P. G. | L. P. G. | L. P. G. | L. P. G. |
| April .. .. | 27 | 66 | 114 | |
| May .. .. | 39 | 90 | 146 | Shop |
| June .. .. | 28 | 87 | 163 | closed. |

## APPENDIX K.

*Statement showing qualifications and pay including allowances of teachers in Government Primary Schools at Ahmedabad.*

| Name of School. | Name of teacher. | Qualifications. | Pay. | Allowances. |
|---|---|---|---|---|
| | | | Rs. | Rs. a. p. |
| Primary Boys' School. | 1. Manishankar Vithalji .. | 3rd year .. | 75 | 19 8 0 |
| | 2. Motiram Harishankar .. | Do. .. | 75 | 19 8 0 |
| | 3. Bhaishankar Tulshiram .. | Do. .. | 75 | 19 8 0 |
| | 4. Bhanji Motiram | Do. .. | 29 | 14 8 0 |
| | 5. RamchandraPanachand .. | | On leave | without pay. |
| | 6. Chandulal Chhaganlal .. | Do. .. | 40 | 16 0 0 |
| Primary Girls' School. | 7. Hariganga Bhaishankar .. | Do. .. | 75 | 19 8 0 |
| | 8. Vidyagauri Nagardas .. | Do. .. | 46 | 18 6 5 |
| | 9. Ruxmani Chhotalal .. | Do. .. | 28 | 14 0 0 |
| | 10. Bhagirthi Ghanshyam .. | Do. .. | 40 | 16 0 0 |
| | 11. Javji Jesangji .. | 1st year .. | 20 | 10 0 0 |
| | 12. Karsan Khoja | Do. .. | 20 | 10 0 0 |
| | 13. Rewa Chhaganlal | Do. .. | 20 | 10 0 0 |
| Primary Low Caste School. | 14. Musa Galsangbhai. | Vernacular Final Examination .. | 20 | 10 0 0 |
| | 15. Soman Jivabhai .. | Do. .. | 20 | 10 0 0 |
| Primary Urdu Boys' School. | 16. Rajumiya Hamdumia .. | 3rd year .. | 75 | 19 8 0 |
| | 17. Haidarali Fazludin | 1st year .. | 40 | 16 0 0 |
| | 18. Hussenmian Banamian .. | Do. .. | 24 | 12 0 0 |
| | 19. Abdulrahman Mohmad .. | Do. .. | 20 | 10 0 0 |
| | 20. Hussenmian Ahmadmian .. | Do. .. | 20 | 10 0 0 |
| | 21. Mahmadkhan Muradkhan .. | Do. .. | 20 | 10 0 0 |

## APPENDIX L.

*Statement showing the information in connection with Hubli Settlement.*

| Year. | Population of Settlement. | Cases reported during the year. | | | | Total. | Convicted. | Discharged. | Proportion of cases in which conviction resulted per 1,000 of population. | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | Under Criminal Tribes Act. | Against Property. | Chapter VIII Cases. | Other Cases. | | | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | |
| 1918 .. | 518 | 2 | 9 | 4 | 1 | 16 | 13 | 3 | 25·09 | Under direct Government control. |
| 1919 .. | 741 | 14 | 3 | 3 | 13 | 33 | 29 | 4 | 39·1 | |
| 1920 .. | 1,351 | 17 | 5 | 6 | 3 | 31 | 27 | 4 | 12·5 | Under Mission control. |
| 1921 .. | 1,766 | 4 | 17 | 2 | *Nil.* | 23 | 22 | 1 | 12·3 | |

## APPENDIX M.

*Cases noted by notaries public in Karachi.*

| | 1917 | 1918 | 1919 | 1920 | 1921 |
|---|---|---|---|---|---|
| (1) The City Magistrate, Karachi (*ex-officio*) .. | 8 | .. | .. | 1 | .. |
| (2) The City Deputy Collector, Karachi (*ex-officio*).. | *Nil* from 1919 to 1921. | | | | |
| (3) The Huzur Deputy Collector, Karachi (*ex-officio*). | | | | | |
| (4) The Mukhtiarkar, Karachi (*ex-officio*) .. | | | | | |
| (5) Mr. Elphinstone, Bar.-at-Law (Faculty of Notaries). | 89 | 91 | 124 | 107 | 248 |
| (6) Mr. Nadirshah, LL.B. (Faculty of Notaries) .. | Average number 200 from 1917 to 1920. | | | | |
| (7) Mr. Dalrymple, Bar.-at-Law (appointed by Government). | Appointed in 1921. | | | | *Nil* in 1921. |

## APPENDIX N.

*Rates of Railway fares and daily allowance drawn by District Superintendents of Police, Assistant Superintendents of Police, Inspectors and Sub-Inspectors.*

| | Railway fares. | Daily allowance. |
|---|---|---|
| District Superintendents of Police. | I class double .. | Rs. 7-8-0. |
| Assistant Superintendents of Police | I „ „ .. | Rs. 6-0-0. |
| Inspectors .. .. | II „ „ .. | From Rs. 3 to Rs. 4-8-0. |
| Sub-Inspectors .. .. | II „ „ .. | From Rs. 1-2-0 to Rs. 2-10-0 when travelling beyond their jurisdiction. No daily allowance within jurisdiction. |

## APPENDIX O.

*Statement regarding suits filed in the First Class Sub-Judge's Court at Sholapur during 1920 and 1921.*

| No. of suits instituted in First Class Sub-Judge's Court. | No. of suits retained by First Class Sub-Judge's Court. | No. transferred to the Joint Sub-Judge's Court. | Total of columns 2 and 3. | No. compromised in | | No. withdrawn in | | No. tried on merits and decided to | | Number pending in | | No. of suits decided *ex parte* and decrees on awards. | Total of columns 5 to 9. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | First Class Court. | Joint Court. | First Class Court. | Joint Court. | First Class Court. | Joint Court. | First Class Court. | Joint Court. | | |
| 1 | 2 | 3 | 4 | 5 | | 6 | | 7 | | 8 | | 9 | 10 |
| 3,973 | 1,865 | 2,108 | 3,973 | 216 | 223 | 5 | 54 | 445 | 582 | 454 | 374 | 1,510 | 3,973 |

## APPENDIX P.

*Statement showing the number of trees tapped by Messrs. Boyce and Company during 1920-21 and 1921-22 in each month with rent fee and tree-tax.*

| Months. | 1920-21. | | | 1921-22. | | |
|---|---|---|---|---|---|---|
| | Trees tapped. | Tree-tax. | Vend-fee. | Trees tapped. | Tree-tax. | Vend fee. |
| | | Rs. | Rs. | | Rs. | Rs. a. |
| August .. | 3,000 | 9,000 | | 200 | 600 | |
| September .. | 3,938 | 11,814 | | 300 | 900 | |
| October .. | 775 | 2,325 | | 700 | 2,100 | |
| November .. | .. | .. | | 1,121 | 3,363 | |
| December .. | 2,667 | 8,001 | 68,500 | 546 | 1,638 | 40,089 8 |
| January .. | 440 | 1,320 | | 1,346 | 4,038 | |
| February .. | 1,050 | 3,150 | | 1,360 | 4,080 | |
| March .. | 1,796 | 5,388 | | 728 | 2,184 | |
| April .. | 2,054 | 6,162 | | 988 | 2,964 | |
| May, June and July .. | .. | .. | | .. | .. | |

## APPENDIX Q.

| Name of Officers. | Amount of fees received in the year of service. | | | | | Amount compared to salary. |
|---|---|---|---|---|---|---|
| | First year. | Second year. | Third year. | Fourth year. | Fifth year. | |
| | Rs. | Rs. | Rs. | Rs. | | |
| Consulting Architect to Government (Mr. S. Woods Hill) .. | 3,000 | 100 | .... | .... | .... | ·034 |
| Mr. E. C. Henriques .. | *Nil* | *Nil* | .... | .... | .... | *Nil.* |
| „ A. J. A. Illingworth | *Nil* | .... | .... | .... | .... | *Nil.* |
| „ Cameron .. | *Nil* | .... | .... | .... | .... | *Nil.* |
| „ J. Mercer .. | 500 | *Nil* | *Nil* | *Nil* | 150<br>3,000 | ·076 |
| „ Richard Duckett .. | *Nil* | 250 | 2,375 | 4,500 | *Nil* | 23·02 |

## APPENDIX R.

*A list of schools that took advantage of boarding grants for orphans and destitute children and of payments for the children of the poor, during 1919-20.*

1. Bombay Education Society's Boys' High School, Byculla, Bombay.
2. Bombay Education Society's Girls' High School, Byculla, Bombay.
3. St. Mary's High School, Nesbit Road, Mazgaon, Bombay.
4. Indo-British Institution, Hornby Road, Fort, Bombay.
5. Scottish Orphanage, Mahim, Bombay.
6. Convent High School, Clare Road, Byculla, Bombay.
7. Convent High School, Wodehouse Road, Fort, Bombay.
8. Convent High School, Parel, Bombay.
9. St. Joseph's School, Agripada, Bombay.
10. St. Peter's European High School, Mazgaon, Bombay.
11. Convent High School, Poona.
12. Anglo-Indian Home and Taylor High School, Poona.
13. St. Vincent's High School, Poona.
14. St. Peter's Girls' High School, Khandala.
15. Convent High School, Panchgani.
16. Convent School, Igatpuri.
17. League of Mercy's Home School, Nasik.
18. St. Joseph's Convent, Belgaum.
19. St. Joseph's Convent, Bandra.
20. St. Stanislaus' Institution, Bandra.
21. St. Mary's Convent, Bandra.
22. Convent High School, Karachi.
23. St. Patrick's High School, Karachi.
24. Grammar School, Karachi.
25. St. Anne's Poor School, Byculla, Bombay.

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*A list of schools that took advantage of boarding grants for orphans and destitute children and of payments for the children of the poor, during 1920-21.*

1. Bombay Education Society's Boys' High School, Byculla, Bombay.
2. Bombay Education Society's Girls' High School, Byculla, Bombay.
3. St. Mary's High School, Nesbit Road, Mazgaon, Bombay.
4. Indo-British Institution, Hornby Road, Fort, Bombay.
5. Scottish Orphanage, Mahim, Bombay.
6. Convent High School, Clare Road, Byculla, Bombay.

7. Convent High School, Wodehouse Road, Fort, Bombay.
8. Convent High School, Parel, Bombay.
9. St. Joseph's School, Agripada, Bombay.
10. St. Peter's European High School, Mazgaon, Bombay.
11. Convent High School, Poona.
12. Anglo-Indian Home and Taylor High School, Poona.
13. St. Vincent's High School, Poona.
14. St. Peter's Girls' High School, Khandala.
15. Convent High School, Panchgani.
16. Convent School, Igatpuri.
17. League of Mercy's Home School, Nasik.
18. St. Joseph's Convent, Belgaum.
19. St. Joseph's Convent, Bandra.
20. St. Stanislaus' Institution, Bandra.
21. St. Mary's Convent, Bandra.
22. Convent High School, Karachi.
23. St. Patrick's High School, Karachi.
24. Grammar School, Karachi.
25. G. I. P. Railway School, Igatpuri.

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*Statement regarding boarding and tuitional grants to European Schools.*

| | 1919-1920. | 1920-1921. |
|---|---|---|
| | Rs. a. p. | Rs. a. p. |
| (*a*) and (*b*) Amount spent in European Schools as— | | |
| (1) boarding grants for orphans and destitute children .. .. | 85,939 12 2 | 97,692 4 3 |
| (2) payments for children of the poor .. .. | 5,040 8 0 | 8,372 8 0 |
| (*c*) Number and names of schools which took advantage of these grants .. | 25 schools, a list of which is appended. | 25 schools, a list of whi is appended. |
| (*d*) Number of children of— | | |
| Class (1) .. .. | 681 | 683 |
| Class (2) .. .. | 127 | 139 |

## APPENDIX S.

*Particulars regarding works done for agricultural and drinking purposes.*

| | 1919-1920. | | 1920-21. | | 1921-22. | |
|---|---|---|---|---|---|---|
| | Drinking. | Agricultural. | Drinking | Agricultural. | Drinking. | Agricultural. |
| 1. Tarapur .. | .. | .. | .. | .. | .. | 1 |
| 2. Palghar .. | 1 | 2 | 5 | 4 | .. | .. |
| 3. Nargol .. | .. | .. | .. | 1 | .... | .. |
| 4. Wangaon .. | .. | 1 | .. | .. | .. | .. |
| 5. Asad .. | .. | 1 | .. | .. | .. | .. |
| 6. Monor .. | 1 | .. | 1 | .. | .. | .. |
| 7. Gholwad .. | .. | 7 | .. | 4 | .. | .. |
| 8. Malad .. | 3 | .. | 3 | 2 | 1 | .. |
| 9. Bordi .. | .. | 9 | .. | 1 | .. | .. |
| 10. Jambul .. | 1 | .. | .. | .. | .. | .. |
| 11. Chikhla .. | .. | .. | .. | 2 | .. | .. |
| 12. Malyal .. | .. | 2 | .. | .. | .. | .. |
| 13. Kelwa .. | .. | .. | .. | 1 | .. | .. |
| 14. Bhiwandi .. | .. | .. | .. | 1 | .. | .. |
| 15. Umbergaon .. | .. | .. | .. | .. | .. | 2 |
| 16. Achari .. | .. | .. | .. | .. | .. | 1 |
| 17. Borivali .. | .. | .. | .. | .. | 1 | 1 |
| 18. Kalyan .. | .. | .. | .. | 2 | .. | .. |
| 19. Solsomba .. | .. | .. | .. | 1 | .. | .. |
| 20. Jai .. | .. | .. | .. | 2 | .. | .. |
| 21. Gokhivra .. | .. | .. | 1 | .. | .. | .. |
| 22. Bardi .. | .. | .. | .. | 1 | .. | .. |
| | 6 | 22 | 10 | 23 | 2 | 5 |

Total—

| | | | | | |
|---|---|---|---|---|---|
| Drinking purposes | .. | .. | .. | .. | 18 |
| Agricultural purposes | .. | .. | .. | .. | 50 |
| | | | | | 68 |

## APPENDIX T.

*Statement showing names of papers, etc.*

| Names of papers or periodicals. | Number of copies. |
|---|---|
| The " Times of India " (Daily) .. .. | 11 |
| The " Bombay Chronicle " (Daily) .. .. | 11 |
| The " Advocate of India " (Daily) .. .. | 4 |
| The " Pioneer ", Allahabad .. .. | 3 |
| The " Deccan Herald ", Poona .. .. | 2 |
| The " Indian Social Reformer " .. .. | 5 |
| The " Daily Gazette ", Karachi .. .. | 2 |
| The " Market Report ", Bombay .. .. | 4 |
| The " Times of India ", Mail Edition .. .. | 16 |
| The " Combined Civil List ", Allahabad .. .. | 2 |
| The " Bombay Law Reporter " .. .. | 3 |
| The " Mahratta ", Poona .. .. | 4 |
| The " Indian Journal of Medical Research ", Calcutta .. | 1 |
| The " Bombay Natural History Society's Journal " .. | 1 |
| The " Servant of India ", Poona .. .. | 6 |
| The " Young India ", Ahmedabad .. .. | 4 |
| The " Madras Times ", Madras .. .. | 1 |
| The " Hindi Punch ", Bombay .. .. | 1 |
| The " Indian Textile Journal " .. .. | 1 |
| The " Kesari ", Poona .. .. | 1 |
| The " Madras Mail ", Madras .. .. | 1 |
| The " Illustrated Pioneer Mail ", Allahabad .. | 1 |

## APPENDIX U.

*Travelling allowances.*

Classification of officers for purposes of —

GOVERNMENT OF BOMBAY.

FINANCE DEPARTMENT.

Resolution No. 591.

Secretariat, Fort, Bombay.

Dated the 18th February 1922.

RESOLUTION OF GOVERNMENT.

Under Rule 44 of the Fundamental Rules the Governor in Council with the concurrence of his Ministers is pleased to direct that with effect from 1st March 1922 Government servants should, for the purpose of calculating travelling allowance, be divided into four grades as follows :—

(*a*) The first grade to include all members or probationers of All-India Services, and all other Government servants in receipt of an actual pay of Rs. 750 or more per month, also members of the Bombay Civil Service holding "listed" appointments of Assistant Judges and Sessions Judges.

(*b*) The second grade to include all Government servants in receipt of actual pay of Rs. 200 or more but less than Rs. 750.

(*c*) The third grade to include all Police officers above the rank of constables; Police constables in Aden; Mounted constables in Sind; and all Government servants in superior service not included in grades 1 and 2.

(*d*) The fourth grade to include all Government servants in inferior service and also

(i) Forest guards, and

(ii) Police constables not provided for in grade 3 above.

2. The term "Pay" is defined in Fundamental Rule No. 9 (21).

3. These orders supersede all existing orders on the subject, and apply to all Government servants who are under the administrative control of the Government of Bombay (including the services controlled by the Governor in Council as the agent of the Governor General in Council), with the exception of those Government servants who under the Covenants entered into with them are entitled to be included in a grade higher than that warranted by their pay.

By order of the Government of Bombay,

H. DOW,
Deputy Secretary to Government.

To

The Accountant General.
The Private Secretary to His Excellency the Governor,
The Municipal Commissioner for the City of Bombay,
The Chairman, City of Bombay Improvement Trust,
The Chairman, Bombay Port Trust,
The Chairman, Karachi Port Trust,
The Controller of Millitary Accounts, Western, Circle,
The Protector of Emigrants, Bombay,
The Protector of Emigrants, Karachi,
The Government Examiner of Accounts, B. B. & C. I. Railway,
The Government Examiner of Accounts, G. I. P. Railway,
The Government Examiner of Accounts, Madras and Southern Maratha Railway,
The Prothonotary and Registrar of His Majesty's High Court of Judicature, Original Jurisdiction, Bombay,
The Registrar of His Majesty's High Court of Judicature, Appellate Side, Bombay,
All other Heads of Offices under the several Departments of the Secretariat,
All Departments of the Secretariat.

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*Travelling Allowance.*

3rd Grade Officers.

Eligibility for second class accommodation.

GOVERNMENT OF BOMBAY.

FINANCE DEPARTMENT.

Resolution No. 1138.

Secretariat, Fort, Bombay.

Dated the 18th April 1922.

RESOLUTION OF GOVERNMENT.

In continuation of Government Resolution, No. 591 dated 18th February 1922, Government are pleased to direct that the limit of Rs. 50 referred to in Article 1011 (*c*) (ii), Civil Service Regulations, and Note 2 thereunder should be raised to Rs. 100.

By order of the Government of Bombay,

H. DOW,

Deputy Secretary to Government.

To

The Accountant General,
The Private Secretary to His Excellency the Governor,
The Municipal Commissioner for the City of Bombay,
The Chairman, City of Bombay Improvement Trust,
The Chairman, Bombay Port Trust,
The Chairman, Karachi Port Trust,
The Controller of Military Accounts, Western Circle,
The Protector of Emigrants, Bombay,
The Protector of Emigrants, Karachi,
The Government Examiner of Accounts, B. B. & C. I. Railway,
The Government Examiner of Accounts, G. I. P. Railway,
The Government Examiner of Accounts, Madras and Southern Maratha Railway,
The Prothonotary and Registrar of His Majesty's High Court of Judicature, Original Jurisdiction, Bombay,
The Registrar of His Majesty's High Court of Judicature, Appellate Side, Bombay,
All other Heads of Offices under the several Departments of the Secretariat,
All Departments of the Secretariat.

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*Travelling Allowance.*

Police Officers.

Classification for purposes of—

GOVERNMENT OF BOMBAY.

FINANCE DEPARTMENT.

Resolution No. 1280.

Secretariat, Fort, Bombay.

Dated the 12th May 1922.

Letter from the Deputy Inspector General of Police for Sind No. 2975, dated 29th March 1922 :—

I have the honour to draw your attention to the new classification of Government servants for the purposes of travelling allowance under Rule 44 of the Fundamental Rules published in the Government resolution quoted above.

2. Under these rules all Inspectors drawing less than Rs. 200 per mensem come into the 3rd class which means that they have to travel Intermediate class by rail along with their Head constables and mounted constables. All Sub-Inspectors also have to travel Intermediate instead of second as formerly.

3. It is hardly necessary to remark that this has caused a great deal of dissatisfaction. Inspectors have always been classed with Mukhtiarkars and it is lowering to the dignity of their position to now place at least half their number in an inferior position.

4. I fail to see why Mounted constables in Sind should be given a higher place than their equals in the Presidency, and than their brothers in the Foot Police in Sind.

5. To remedy these defects and to still keep about the same amount of expenditure, I would ask you to recommend the following to Government :—

(1) All Inspectors on whatever pay to be classed in the second grade.

(2) All Sub-Inspectors to be allowed to draw when travelling by rail one single second class fare *plus* daily allowance, provided they take a second class ticket. If they prefer to travel intermediate, they should be allowed only double intermediate fare.

(3) Mounted constables in Sind to be placed in the fourth grade along with all other police constables. This will only need a slight alteration in (*c*) by leaving out the words " Mounted Constables in Sind ".

Memorandum from the Commissioner in Sind No. Judl.—404 dated 17th April 1922 :—

" Submitted to Government.

" 2. The Commissioner strongly supports the Deputy Inspector General's recommendation that all Inspectors whether drawing pay above or below the limit of Rs. 200, be included in the second grade. The fact that a police officer holds the office of Inspector is much more important as a criterion of the proper status to be accorded to him than the mere question whether he draws Rs. 195 or Rs. 200. There seems to be no logical reason for requiring an Inspector on Rs. 195 to travel by intermediate class, while an Inspector who has received the next increment in pay is allowed to travel by second class. There are at present 40 Inspectors in Sind who come below the limit of Rs. 200 and are thus included in the third grade.

" 3. Although the cost of the modification of the orders proposed will not be great, the Commissioner would suggest, as recommended by the Deputy Inspector General, that it be counterbalanced by doing away with the privileged position accorded to mounted constables in Sind. There is no strong reason for differentiating these men from the constables of the other branches of the force. Moreover it is not desirable, in the interests of discipline, that constables should travel by the same class of accommodation as Sub-Inspectors and even, as the classification now stands, some of the Inspectors. The reduction of these men to the fourth grade should effect a considerable saving which will more than compensate for the cost of the first proposal.

" 4. The Commissioner does not support Mr. Ommanney's proposal in regard to Sub-Inspectors. If the proposal regarding mounted constables is accepted, the principal reason for it will disappear."

Memorandum from Home Department No. 1702A, dated 10th May 1922.

RESOLUTION.—In partial modification of the orders issued in paragraph 1 (*c*) of Government Resolution No. 591 dated 18th February 1922, the Governor in Council is pleased to direct that police constables in Aden and mounted constables in Sind should be classed as fourth grade officers for the purpose of calculating travelling allowance.

2. Separate orders will be issued on the Commissioner in Sind's proposal regarding the Inspectors.

By order of the Governor in Council,

H. DOW,
Deputy Secretary to Government.

To
The Commissioner in Sind,
The Political Resident, Aden,
The Inspector General of Police (for information),
The Deputy Inspector General of Police for Sind,
All District Superintendents of Police in Sind,
The Accountant General,
The Home Department (with the papers),
The Political Department.

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No. 1702-A.

HOME DEPARTMENT.
Secretariat, Fort,
Bombay, 4th July 1922.

From
G. Wiles, Esquire,
Deputy Secretary to the Government of Bombay,
Home Department;

To
The Commissioner in Sind.

*Subject* :—Classification of Police officers for purposes of travelling allowance.

Sir,

With reference to paragraph 2 of Government Resoluton, Finance Department, No. 1280, dated the 12th May 1922, on the subject noted above, I am directed by the Governor in Council to inform you that Government regret that they are unable to sanction your proposal for the classification of Inspectors of Police as officers of the second grade for the purposes of travelling allowance whether they may draw pay above or below the limit of Rs. 200 per mensem which was made in your Memorandum No. Judl.—404, dated the 17th April 1922.

I have the honour to be,
Sir,
Your most obedient servant,
(Signed) V. R. NACHANE,
*for* Deputy Secretary to the Government of Bombay, Home Department.

Copies forwarded with compliments for information to :—
The Inspector of General of Police, Bombay Presidency,
The Political Resident, Aden,
The Deputy Inspector General of Police for Sind,
The Accountant General, Bombay,
The Finance Department,
The Political Department.

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*Travelling allowance.*

Retrenchment of expenditure in respect of —.

GOVERNMENT OF BOMBAY.

FINANCE DEPARTMENT.

Resolution No. 864.

Secretariat, Fort, Bombay.

Dated the 12th July 1922.

RESOLUTION OF GOVERNMENT.

In view of the recent increase in passenger fares on railways, the Governor in Council is pleased to direct that, with effect from 15th July 1922, the allowance admissible under Article 1012, Civil Service Regulations, to an officer of the first, second or third class should be reduced from double the fare to 1-3/5 fares of the class in which he is entitled to accommodation. The allowance shall cover mileage to and from the railway station unless the road journey exceeds five miles.

2. These orders apply to journeys performed by rail only.

By order of the Governor in Council,

H. DOW,
Deputy Secretary to Government.

To
The Accountant General,
The Private Secretary to His Excellency the Governor,
The Postmaster General, Bombay Circle,
The Director, Government Observatories, Bombay and Alibag,
The Municipal Commissioner for the City of Bombay,
The Chairman, City of Bombay Improvement Trust,
The Chairman, Bombay Port Trust,
The Chairman, Karachi Port Trust,
The Chairman, Ahmedabad Municipality,

The Protector of Emigrants, Bombay,
The Protector of Emigrants, Karachi,
The Manager, Government Military Dairy, Bombay,
The Superintendent, Telegraph Engineering, Karachi Division,
The Controller of Marine Accounts, Bombay,
The Controller of Military Accounts, Western Circle,
The Audit Officer, Bombay Development Scheme,
The Government Examiner of Accounts, B. B. & C. I. Railway,
The Government Examiner of Accounts, G. I. P. Railway,
The Government Examiner of Accounts, M. & S. M. Railway,
The Accountant General, Posts and Telegraphs, Miscellaneous Department, Calcutta,
The Deputy Accountant General, Posts and Telegraphs, Postal Branch, Calcutta,
The Deputy Accountant General, Posts and Telegraphs, Telegraph Branch, Delhi,
The Deputy Accountant General, Posts and Telegraphs, Telegraph Branch, Nagpur,
The Deputy Accountant General, Posts and Telegraphs, Telegraph Branch, Madras,
The Prothonotary and Registrar of His Majesty's High Court of Judicature, Original Jurisdiction, Bombay,
The Registrar of His Majesty's High Court of Judicature, Appellate Side, Bombay,
All other Heads of Offices under the several Departments of the Secretariat,
All Departments of the Secretariat.

## APPENDIX V.

*Statement showing the number of existing Inspectors and Sub-Inspectors recruited direct to the Police Training School and those promoted from the ranks respectively in the Presidency proper.*

| Serial No. | District. | Inspectors. | | Sub-Inspectors. | | Remarks. |
|---|---|---|---|---|---|---|
| | | Direct nominees. | Departmental men. | Direct nominees. | Departmental men. | |
| 1 | Ahmedabad .. .. | .. | 5 | 21 | 12 | Direct nominees must have the minimum qualifications of Matriculation or School Final. Departmental men seldom have this qualification but pass through the course at the Police Training School. |
| 2 | Broach .. .. | 1 | 2 | 7 | 6 | |
| 3 | Kaira .. .. | 2 | 1 | 11 | 27 | |
| 4 | Panch Mahals .. | 2 | 2 | 6 | 12 | |
| 5 | Surat .. .. | 1 | 2 | 5 | 12 | |
| 6 | Thana .. .. | 2 | 3 | 12 | 14 | |
| 7 | Bombay Suburban District .. .. | .. | 1 | 5 | 2 | |
| 8 | Ahmednagar .. | 3 | 2 | 14 | 14 | |
| 9 | East Khandesh .. | 2 | 3 | 15 | 21 | |
| 10 | West Khandesh .. | 2 | 2 | 7 | 15 | |
| 11 | Nasik .. .. | 2 | 4 | 18 | 19 | |
| 12 | Poona .. .. | 1 | 5 | 21 | 19 | |
| 13 | Satara .. .. | 1 | 4 | 14 | 19 | |
| 14 | Sholapur .. .. | 2 | 2 | 14 | 13 | |
| 15 | Belgaum .. .. | 1 | 4 | 17 | 16 | |
| 16 | Bijapur .. .. | 2 | 3 | 18 | 8 | |
| 17 | Dharwar .. .. | 1 | 4 | 23 | 15 | |
| 18 | Kanara .. .. | 2 | 1 | 11 | 4 | |
| 19 | Kolaba .. .. | 1 | 1 | 11 | 5 | |
| 20 | Ratnagiri .. .. | 1 | 2 | 8 | 8 | |
| 21 | G. I. P. and M. & S. M. Railways .. .. | 1 | 4 | 14 | 8 | |
| 22 | B. B. & C. I. Railway .. | 1 | 4 | 6 | 12 | |
| 23 | Criminal Investigation Department .. | 2 | 9 | 19 | 9 | |
| 24 | Police Training School .. | 2 | .. | .. | .. | |
| | Total .. | 35 | 70 | 297 | 290 | |

## APPENDIX W.

*Names of the Presidents, District Local Boards, in the Presidency.*

| Name of District Local Board. | Name of President. |
|---|---|
| Ahmedabad .. | .. Sardar Khan Bahadur Rustomji J. Vakil. |
| Kaira .. | .. Rao Saheb Dadubhai P. Desai. |
| Panch Mahals .. | .. Khan Saheb Saherwala. |
| Surat .. | .. Rao Bahadur Ranjitram Kalabhai. |
| Broach .. | .. Khan Bahadur A. M. Dalal. |
| Thana .. | .. Mr. S. G. Phadke. |
| Ahmednagar .. | .. Rao Bahadur G. K. Chitale. |
| East Khandesh | .. Rao Saheb Rupchand Motiram. |
| West Khandesh | .. Rao Bahadur S. D. Garud. |
| Poona .. | .. Dewan Bahadur K. R. Godbole. |
| Sholapur .. | .. Rao Bahadur G. K. Sathe, C.I.E. |
| Satara .. | .. Mr. S. V. Joshi. |
| Nasik .. | .. Mr. S. D. Dhumal. |
| Kolaba .. | .. Rao Bahadur G. M. Kamat. |
| Ratnagiri .. | .. Mr. D. A. Vichare, M.L.C. |
| Kanara .. | .. Mr. V. A. Coelho. |
| Bijapur .. | .. Rao Bahadur R. K. Kembhavi. |
| Belgaum .. | .. K. B. Ardeshir Naoroji. |
| Dharwar .. | .. Rao Bahadur S. R. Rodda. |
| Karachi .. | .. Mr. Shewaram Dewanmal. |
| Hyderabad .. | .. Mr. A. M. I. Umedally. |
| Sukkur .. | .. Mian Pirbaksh. |
| Larkana .. | .. Mr. S. N. Bhutto. |
| Nawabshah .. | .. Mr. F. S. Mirza. |
| Thar Parkar .. | .. } Collector. |
| Upper Sind Frontier | .. } |

# APPENDIX X.

*Statement for Ahmedabad District.*

| Name of taluka. | Area of land assigned for grazing. | Area of land available for grazing. | | Number of | | Remarks. |
|---|---|---|---|---|---|---|
| | | On payment of fees. | Without fees in villages where the waste area is insignificant. | Milch cattle. | Plough cattle. | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| | A. g. | A. g. | A. g. | | | |
| North Daskroi .. | 2,015 0 | 1,000 0 | 3,258 0 | 17,084 | 9,553 | |
| Prantij .. | 3,569 26 | 16,754 27 | 11,227 10 | 15,574 | 9,614 | |
| Modasa .. | 4,562 11 | 37,430 34 | 2,558 3 | 15,312 | 7,093 | |
| Viramgam .. | 830 0 | 3,588 26 | 3,291 24 | 35,799 | 21,065 | |
| South Daskroi .. | 2,569 1 | 11,542 34 | 1,423 16 | 14,234 | 12,022 | |
| Sanand .. | 1,664 7 | 4,283 5 | 450 19 | 6,285 | 4,857 | |
| Dholka .. | 3,135 11 | 23,255 4 | 689 29 | 36,021 | 18,540 | |
| Dhandhuka .. | 761 20 | 9,782 31 | 27,557 22 | 4,392 | 1,293 | |
| Gogho .. | 428 0 | 1,506 12 | 1,124 28 | 749 | 458 | |
| Total .. | 19,534 36 | 1,09,144 13 | 51,580 31 | 145,450 | 84,495 | |
| In round figures.. | 19,535 0 | 1,09,144 0 | 51,581 0 | 145,450 | 84,495 | |

## APPENDIX X—*contd.*

*Statement for Kaira District.*

| Name of taluka. | Area of land assigned for grazing. | Area of land available for grazing on payment of fees. | Number of | | Remarks. |
|---|---|---|---|---|---|
| | | | Milch cattle. | Plough cattle. | |
| 1 | 2 | 3 | 4 | 5 | 6 |
| | Acres. | Acres. | | | |
| Mehemdabad .. | 2,916 | 670 | 12,344 | 11,616 | The area assigned for grazing is sufficient. No inconvenience is felt by the public. |
| Matar .. | 3,749 | 2,782 | 12,128 | 9,366 | Do. except in the villages of (1) Alindra, (2) Sinholdi, (3) Khandhli, (4) Dewataj, (5) Sinjiwada, (6) Undhela, (7) Maliataj and (8) Dethali, where such area is insufficient for want of Government waste. |
| Nadiad .. | 1,243 | 87 | 21,472 | 16,485 | The area assigned is insufficient, but it cannot be helped as no more waste area is available for being assigned as grazing area. |
| Kapadwanj .. | 6,051 | 2,481 | 21,730 | 17,084 | The area assigned for grazing is more than sufficient. |
| Anand .. | 2,848 | .. | 24,734 | 16,265 | The grazing area is insufficient and inconvenience is being felt by the people on that account, but for want of Government waste land, no more can be assigned. |
| Borsad .. | 1,265 | 82 | 21,173 | 11,767 | The grazing area is insufficient in the taluka except in one village. |
| Thasra .. | 4,466 | 3,245 | 14,056 | 14,841 | The grazing area is more than sufficient. |
| Total .. | 22,538 | 9,347 | 127,637 | 97,424 | |

## APPENDIX X—*contd.*

*Statement for Panch Mahals District.*

| Name of taluka. | Area of land assigned for grazing. | Area of land available for grazing on payment of fees. | Number of | | Remarks. |
|---|---|---|---|---|---|
| | | | Milch cattle. | Plough cattle. | |
| 1 | 2 | 3 | 4 | 5 | 6 |
| | Acres. | Acres. | | | |
| Godhra .. .. | 3,203 | 59,504 | 47,666 | 41,691 | |
| Kalol .. .. | 2,770 | 14,873 | 15,001 | 20,030 | |
| Halol .. .. | 1,265 | 42,163 | 12,704 | 15,997 | |
| Dohad .. .. | 23,475 | 30,820 | 22,354 | 55,501 | |
| Jhalod .. .. | 44,308 | 17,909 | 15,721 | 17,762 | |
| Total .. | 75,021 | 165,269 | 113,446 | 150,981 | |

*Statement for Broach District.*

| Name of taluka. | Area of land assigned for grazing. | Area of land available for grazing on payment of fees. | Number of | | Remarks. |
|---|---|---|---|---|---|
| | | | Milch cattle. | Plough cattle. | |
| 1 | 2 | 3 | 4 | 5 | 6 |
| | A. g. | A. g. | | | |
| 1. Broach .. .. | 2,743 6 | 266 33 | 7,886 | 10,725 | |
| 2. Ankleshwar.. .. | 1,433 0 | 1,368 0 | 5,362 | 9,010 | |
| 3. Hansot .. .. | 1,392 15 | 421 16 | 5,170 | 7,799 | |
| 4. Jambusar .. .. | 2,051 4 | 1,444 16 | 10,507 | 13,496 | |
| 5. Amod .. .. | 1,491 21 | *Nil* | 3,759 | 6,298 | |
| 6. Vagra .. .. | 1,518 8 | 25,288 9 (From Alla Bet) | 4,770 | 8,198 | |
| Total .. | 10,629 14 | 28,788 34 | 37,454 | 55,526 | |

## APPENDIX X—*contd.*

*Statement for Surat District.*

| Name of taluka. | Area of land assigned for grazing. | Area of land available for grazing on payment of fees. | Number of | | Remarks. |
|---|---|---|---|---|---|
| | | | Milch cattle. | Plough cattle. | |
| 1 | 2 | 3 | 4 | 5 | 6 |
| | Acres. | Acres. | | | |
| 1. Olpad .. .. | 1,591 | 3,001 | 10,395 | 11,412 | |
| 2. Chorasi .. .. | 680 | 225 | 6,999 | 6,332 | |
| 3. Bardoli .. .. | 2,013 | .. | 12.618 | 10,604 | |
| 4. Valod .. .. | 989 | 303 | 5,987 | 6,660 | |
| 5. Mandvi .. .. | 34,047 | 24,813 | 13,949 | 15,095 | |
| 6. Jalalpore .. .. | 841 | 1,628 | 13,452 | 9,128 | |
| 7. Chikhli .. .. | 1,489 | 4,070 | 14,816 | 15,333 | |
| 8. Bulsar .. .. | 1,093 | 4,733 | 18,147 | 18,579 | |
| 9. Pardi .. .. | 4,556 | 1,766 | 14,000 | 16,927 | |
| Total .. | 47,299 | 40,529 | 110,363 | 110,070 | |

*Statement for Thana District.*

| Name of taluka. | Area of land assigned for grazing. | Area of land available for grazing on payment of fees. | Number of | | Remarks. |
|---|---|---|---|---|---|
| | | | Milch cattle. | Plough cattle. | |
| 1 | 2 | 3 | 4 | 5 | 6 |
| | Acres. | Acres. | | | |
| Umbergaon .. .. | 13,759 | 94,134 | 14,107 | 21,064 | The area shown in column 2 consists of Woodland and guracharan. |
| Dahanu .. .. | 40,339 | .. | 13,004 | 18,631 | |
| Mahim .. .. | 57,321 | 53,793 | 18,030 | 26,090 | The area shown in column 3 is open forest in charge of the Forest Department available for grazing on payment of fees. |
| Vada .. .. | 17,349 | 74,013 | 10,664 | 11,543 | |
| Mokhada .. .. | 9,758 | 39,040 | 7,152 | 5,491 | |
| Shahapur .. .. | 58,708 | 85,760 | 18,056 | 17,751 | |
| Murbad .. .. | 43,288 | 47,248 | 2,936 | 2,393 | |
| Kalyan .. .. | 11,296 | 20,716 | 18,084 | 15,126 | |
| Bhiwandi .. .. | 13,572 | 35,580 | 14,257 | 18,338 | |
| Bassein .. .. | 8,071 | 48,468 | 80,090 | 12,612 | |
| North Salsette .. | 2,831 | 12,791 | 3,358 | 5,358 | |
| Total .. | 276,292 | 511,943 | 199,738 | 154,397 | |

## APPENDIX Y.

*Statement from the Director of Industries in connection with the question put by Rao Bahadur D. A. Vichare, M.L.C., regarding the manufacture of slate, etc.*

I do not know what is meant by "earth point" and assume that Rao Bahadur Vichare is seeking information regarding ochres suitable for manufacturing paint. Ochres occur in several places in the Ratnagiri district and samples have been received in this office by enquirers who have generally refused to disclose the place of their origin. Ochres suitable for making paints are, however, fairly common in India and most of the Ratnagiri ochres are apparently situated in localities where the cost of transport makes their carriage to the Bombay market prohibitive.

2. One sample of slate has been received from Malvan which is apparently suitable for pencils.

3. Buttons from cocoanut shells would scarcely compete with buttons made from more suitable materials such as horns and talipot nuts. In 1918, the Director of Industries made enquiries regarding the possibility of encouraging a button industry at Vijayadurg, but the local workers appear to have made preposterous demands. There is very little profit in hand button making and since the Armistice the market has been flooded with large surplus war stocks.

4. Enquiries were made in 1920 regarding the possibility of establishing a coir industry in the Ratnagiri district. It appeared that the only suitable action that might be taken would be to send Ratnagiri people to the Malabar Coast for instruction or to import Malabar coir workers to teach the Ratnagiri people. The cocoanut fibre in the Ratnagiri district appears, however, to be inferior and there do not appear also to be the same natural facilities for netting as in Malabar.

5. A list of clays and other samples received from the Ratnagiri district and tested in the Pottery section of the Sir J. J. School of Art is attached. Mr. Fern has also visited Malvan and given assistance to the local potters. At his suggestion also an officer of the Geological Survey of India recently visited Malvan to inspect a local bed of Kaolin; his report has not yet been published.

*Clays and other samples received and tested in Pottery section of Sir J. J. School of Art, Bombay.*

| Name of Place. | Name of Sample. | Report. |
|---|---|---|
| Jalgaon (Dapoli) .. | Clay .. | Good for flooring and roofing tiles. |
| Khed .. .. | ,, .. | Good for flooring tiles. |
| Dapoli .. .. | ,, .. | Vitrious, good for flooring tiles. |
| Malvan .. .. | ,, .. | Will make fairly good flooring tiles. |
| Malvan .. | ,, .. | Good for terracotta ware and flooring tiles. |
| Malvan .. .. | Earth .. | Crude China clay, contains 17½ per cent. good China clay. |
| Malvan .. .. | Clay mixture .. | Good for flooring tiles and terracotta ware. |
| Malvan .. .. | Ochreous powder .. | Useful for water colours and oil paints, etc. |
| Malvan .. .. | Pencil stone (slate) .. | Useful for pencils and if hard for slates. |

## APPENDIX Z.

*Statement showing dues of land revenue and arrears and coercive measures adopted in Government and alienated villages in the Bombay Presidency during the year ending 31st July 1921.*

| Division. | Amount of land revenue put down for collection during 1920-21. | Amount outstanding on 31st July 1921. | Number of notices of demand issued. | Number of cases in which one-fourth fine was levied. | Forfeiture and sale of immoveable property. | Other coercive measures. |
|---|---|---|---|---|---|---|
| | Rs. | Rs. | | | | |
| *Bombay Suburban Division.* | | | | | | |
| Government .. | 1,54,568 | 9,422 | 792 | 2 | 7 | .... |
| Alienated .. | 45,333 | 4,155 | 160 | 9 | .... | .... |
| *Northern Division.* | | | | | | |
| Government .. | 67,43,167 | 27,062 | 5,688 | 199 | 43 | 24 |
| Alienated .. | 1,86,282 | 4,199 | 42 | 2 | .... | .... |
| *Central Division.* | | | | | | |
| Government .. | 83,73,944 | 59,159 | 8,119 | 728 | 362 | 106 |
| Alienated .. | 9,36,747 | 1,68,678 | 589 | 279 | 12 | 19 |
| *Southern Division.* | | | | | | |
| Government .. | 86,18,783 | 26,171 | 1,631 | 5,322 | 393 | 107 |
| Alienated .. | 3,42,037 | 16,027 | 55 | 16 | 7 | .... |
| *Sind.* | | | | | | |
| Government .. | 93,92,165 | 6,76,795 | 88,732 | 20 | 2,439 | 48 |
| Alienated .. | 81,387 | 1,746 | 81 | .... | .... | .... |

## APPENDIX AA.

*Register No. 5087 Verhomal* walad *Vaparimal.*

Admitted into Deccan Extra Mural Prison—9th February 1922.
Released from Deccan Extra Mural Prison—18th July 1922.
Weight on admission—122 lbs.
Weight on discharge—113 lbs.
Punishments—None.
Nature of work—Chaki 40 lbs. from 11th February to 30th April 1922.
Do. — Do. 30 lbs. from 1st May 1922 to 17th July 1922.

*Register No. 5088 Bhojraj* walad *Motumal.*

Admitted into Deccan Extra Mural Prison—9th February 1922.
Released from Deccan Extra Mural Prison—18th July 1922.
Weight on admission—133 lbs.
Weight on discharge—111 lbs.
Punishments—None.
Nature of work—Chaki 40 lbs. from 11th February 1922 to 23rd April 1922.
Do. — Do. 30 lbs. from 24th April 1922 to 17th July 1922.

## APPENDIX BB.

*Expenditure.*

Restriction on — in view of the present state of provincial finance.

GOVERNMENT OF BOMBAY.

FINANCE DEPARTMENT.

Circular No. 1041.

Secretariat, Fort, Bombay.

Dated the 26th January 1922.

CIRCULAR.

The attention of all heads of departments is invited to the necessity for practising the utmost economy in every form of Government expenditure, and their co-operation is invited in the special efforts which Government must now make to restrict expenditure to the bare minimum required for administrative purposes. The cost of administration in this Presidency owing both to the high cost of living with its consequential high establishment charges, and also to the greater services rendered and facilities provided for the public than in any other province, has reached an embarrassingly high figure in the present state of provincial finance, and it will be essential at an early date to take steps either to raise more revenue, or to reduce facilities and services by drastic measures, to such standards as Government can afford. In the meantime, Government are confident that much can be done in the remaining months of the current financial year, by avoiding every item of expenditure which is not absolutely essential to reduce the current year's total charges and to improve our closing balances. Travelling by officers, other than those who draw permanent travelling allowance, can be restricted to the amount necessary for a fair average of administrative efficiency, even though such average is lower than the somewhat high standards which were possible when Government's resources were larger. Leave can be restricted to really necessitous cases, and, where possible,—again at some slight cost to efficiency—arrangements can be made to fill vacancies without considerable additional cost to Government. Supplies of all sorts can be husbanded and every item of unessential expenditure ought ruthlessly to be cut down to meet the present abnormal situation. Every disbursing officer should be instructed to watch expenditure jealously without awaiting specific orders on every point where economy is possible. Where officers can discern methods of enforcing special economy by a general rule or instruction, recommendations should be at once submitted to their superior officers with a view to the issue of such instructions either by them, or if necessary, by Government. It is not anticipated that the present difficulty in balancing accounts will prove more than a passing phase which will disappear when once it is realised that increased contributions to the public exchequer are necessarily involved if the same standard of public service is demanded as was possible when the purchasing power of money was higher. It is essential, however,

that every possible economy should be effected and the result appreciated by the people before they are asked, through their representatives, to consent to the provision of the larger revenues required for the future.

P. J. MEAD,
Chief Secretary to Government.

To

The Private Secretary to His Excellency the Governor,
The Protector of Emigrants, Bombay,
The Protector of Emigrants, Karachi,
The Registrar of His Majesty's High Court of Judicature, Appellate Side, Bombay (by letter),
The Prothonotary and Registrar of His Majesty's High Court of Judicature, Original Jurisdiction, Bombay (by letter),
The Government Examiner of Accounts, B. B. & C. I. Railway,
The Government Examiner of Accounts, G. I. P. Railway,
The Government Examiner of Accounts, M. and S. M. Railway,
The Accountant General,
All Heads of Offices under the several Departments of the Secretariat,
All Departments of the Secretariat.

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*Expenditure.*

Restriction on — in view of the present state of provincial finance.

GOVERNMENT OF BOMBAY.

FINANCE DEPARTMENT.

Circular No. 1041.

Secretariat, Fort, Bombay.

Dated the 5th April 1922.

CIRCULAR.

It has been brought to the notice of Government that the wording of the third sentence of Government Circular No. 1041 of 26th January 1922, which inculcates the necessity of improving the closing balances for 1921-22 by restrictions on travelling and on the grant of leave, etc., has led some officers to think that the necessity for the economies urged in that Circular would end with the financial year 1921-22.

This is not the case, and the attention of all heads of departments is drawn to the fact that the strictest economy must be enforced in every form of Government expenditure throughout the year 1922-23.

By order of the Governor in Council,

H. DOW,
Deputy Secretary to Government.

To

The Commissioner, N. D. (with reference to his letter* No. B. G. T.—65 dated 25th March 1922),
The Private Secretary to His Excellency the Governor,
The Protector of Emigrants, Bombay,
The Protector of Emigrants, Karachi,
The Registrar of His Majesty's High Court of Judicature, Appellate Side, Bombay (by letter),
The Prothonotary and Registrar of His Majesty's High Court of Judicature, Original Jurisdiction, Bombay (by letter),
The Government Examiner of Accounts, B. B. & C. I. Railway,
The Government Examiner of Accounts, G. I. P. Railway,
The Government Examiner of Accounts, M. and S. M. Railway,
The Accountant General,
All other Heads of Offices under the several Departments of the Secretariat,
All Departments of the Secretariat.

* Not printed.

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*Leave.*

Restrictions on the grant of—.

GOVERNMENT OF BOMBAY.

FINANCE DEPARTMENT.

Resolution No. 1185.

Secretariat, Fort, Bombay.

Dated the 22nd June 1922.

The following instructions are issued under Fundamental Rule 67 :—

(1) A Government servant on return from leave should not be allowed to proceed on leave again until he has put in at least six months' duty since his last return from leave of not more than 4 months' duration or 11 months' duty since his return from leave of more than 4 months' duration, unless the authority sanctioning the leave is satisfied that no inconvenience to the administration will result therefrom, or that the leave is in the circumstances practically indispensable to the Government servant in question.

(2) (*a*) Until further orders no leave on average pay in excess of one month in a calendar year should be given to Provincial Service and subordinate officers without special reasons to be recorded. This instruction is issued in the interests of economy in pursuance of the principle that no officer serving in his own country should ordinarily require more than one month's leave in the year.

(*b*) In any case Government servants in superior service on less pay than Rs. 100 should only be allowed leave on average salary irrespective of the cost to the State up to the amount due under Fundamental Rule 81 (*b*) (ii) omitting the item '*plus* one year'. If it is considered necessary to grant further leave on average pay out of the item '*plus* one

year', then the pay of the substitute (or of the last substitute in the chain of promotions, if any) must not exceed the minimum pay of the time scale in which he is appointed to officiate and must not exceed half the pay of the officer taking leave or Rs. 20, whichever is greater.

(3) For the present no leave should be granted to inferior Government servants if extra cost is thereby entailed, except for special reasons which must be recorded. In view of the general reduction of inferior servants, it is recognised that in future there may in general be some extra cost when peons, etc., are allowed leave, and as soon as financial exigencies allow such extra cost may be allowed to be incurred for each man up to one-eleventh of the period spent on duty. Thereafter further leave can only be granted, provided there is no extra cost to the State.

By order of the Governor in Council,

H. DOW,
Deputy Secretary to Government.

To

The Accountant General,
The Private Secretary to His Excellency the Governor,
The Director, Government Observatories, Bombay and Alibag,
The Municipal Commissioner for the City of Bombay,
The Chairman, City of Bombay Improvement Trust,
The Chairman, Bombay Port Trust,
The Chairman, Karachi Port Trust,
The Chairman, Ahmedabad Municipality,
The Protector of Emigrants, Bombay,
The Protector of Emigrants, Karachi,
The Controller of Military Accounts, Western Circle,
The Audit Officer, Bombay Development Scheme,
The Government Examiner of Accounts, B. B. & C. I. Railway,
The Government Examiner of Accounts, G. I. P. Railway,
The Government Examiner of Accounts, Madras and S. M. Railway,
*The Prothonotary and Registrar of His Majesty's High Court of Judicature, Original Jurisdiction, Bombay,
*The Registrar of His Majesty's High Court of Judicature, Appellate Side, Bombay,
All other Heads of Offices under the several Departments of the Secretariat,
All Departments of the Secretariat.

*By letter.

# APPENDIX CC.

*Statement showing the number of free student scholars in the Government High School and the New English School, Satara.*

| | Number of free students. | | | Number of scholars. | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Brahmins. | Marathas. | Other castes. | | High School scholars. | | | Middle School scholars. | | | Special scholars. | | | |
| | | | | | Brahmins. | Marathas. | Other castes (Mahomedans). | Brahmins. | Marathas. | Other castes (Mahomedans). | Brahmins. | Marathas. | Other castes (Mahomedans). |
| Government High School.. | 2½ | 17½ | 9½ Mahomedans.<br>1 Low caste. | Government High School | 1 | 2 | 8 | 1 | 2 | 7 | .. | 1 | .. |
| New English School .. | 37 | 10½ | 7½ | New English School .. | .. | 2 | 1 | 4 | 1 | 2 | .. | .. | .. |

*Note.*—(1) There being no more suitable Mahomedan candidates 7 of the remaining 8 free studentships were given to Brahmins and one to a low caste boy.
(2) The fraction ½ means that the student pays half fees.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

# Agenda for the adjourned meeting of the Bombay Legislative Council held at the Town Hall, Bombay, on Monday, the 4th December 1922, at 2 p.m.

## I.—GOVERNMENT BILLS.

(1) Bill No. XV of 1922 (A Bill further to amend the Bombay Rent (War Restrictions) Act, 1918, and the Bombay Rent (War Restrictions, No. 2) Act, 1918)—*Second Reading.*

(*Notices of amendments printed separately and placed on the table.*)

(2) Bill No. XIX of 1922 (A Bill further to amend the Bombay Port Trust Act, 1879)—*First Reading.*

(3) Bill No. XXII of 1922 (A Bill further to amend the Opium Act, 1878)—*First Reading.*

(4) Bill No. XX of 1922 (A Bill to impose a duty in respect of admission to entertainments)—*Second Reading.*

(*Notices of amendments printed separately and placed on the table.*)

(5) Bill No. XVI of 1922 (A Bill to consolidate and amend the law relating to local boards)—*Second Reading.*

(*Notices of amendments printed separately and placed on the table.*)

(6) Bill No. XVII of 1922 (A Bill to provide for Compulsory Elementary Education and to make better provision for the management and control of Primary Education in the Bombay Presidency)—*Second Reading.*

(*Notices of amendments printed separately and placed on the table.*)

## II.—MOTION TO AMEND STANDING ORDERS.

(*Printed separately and placed on the table.*)

## III.—SUPPLEMENTARY BUDGET.

*Monday, the 4th December 1922.*

The Council re-assembled at the Town Hall, Bombay, on Monday, the 4th December 1922, at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BEDREKAR, Khan Bahadur I. M.
BELL, Mr. R. D.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BOLE, Mr. S. K.
BULLOCKE, Mr. A. GREVILLE
CADELL, Mr. P. R.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
CLAYTON, Mr. F.
COCKE, Mr. H. G.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DABHOLKAR, Mr. V. A.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb HARILAL D.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI.
FERNANDES, Major C.
GANDHI, Mr. C. M.
GAYASUDDIN JAUDDIN, Mr.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GODBOLE, Dewan Bahadur K. R.

GULAMHUSEN, Mr. SULTANALI SALEMANJI
HAJI, Mr. IBRAHIM S.
HAJI KHAMISO GUL MAHOMED, Mr.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HATCH, Mr. G. W.
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
HEPPER, Sir LAWLESS
JADHAV, Mr. B. V.
JENNINGS, Major-General W. E.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KASSIM, Mr. G. H.
LALBHAI AMBARAM, Mr.
LALJI NARANJI, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LORY, Mr. F. B. P.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MODI, Sardar Davar T. K.
MOHOMED SALAHUDDIN K., Mr.
MURPHY, Mr. S. J.
MUTALIK, Sardar V. N.
NELSON, Mr. F.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PARANJPYE, The Hon'ble Dr. R. P.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SETALVAD, The Hon'ble Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY

SURVE, Mr. A. N.

THAKOR of AMOD, Sardar NAHARSINGHJI

THOMAS, Mr. G. A.

TRIVEDI, Mr. G. B.

VICHARE, Rao Bahadur D. A.

WOODS, Mr. E. E.

The Honourable the PRESIDENT : Order, order. Are any new members desirous of taking their seats ?

The following members then made the prescribed oath of affirmation or allegiance to His Majesty the King-Emperor and took their seats in the Council :—

Mr. Lalji Naranji,
Mr. Gayasuddin Jauddin,
Sir Lawless Hepper, Kt.,
Mr. G. W. Hatch,
Mr. S. J. Murphy,
Mr. V. A. Dabholkar
Mr. E. E. Woods,
Mr. H. G. Cocke,
Mr. R. D. Bell.

The Honourable the PRESIDENT : Questions.

SCHOLARSHIPS FOR CHILDREN OF MILITARY PENSIONERS.

* Mr. P. N. ADHAV (Satara District) : Will Government be pleased to state the total number of scholarships available to the children of military pensioners awarded in the Poona, Satara, Ratnagiri and Ahmednagar districts during the year 1921-1922 ?

The Honourable Dr. R. P. PARANJPYE : The accompanying statement † furnishes the requisite information about the total number of scholarships paid to the children of military pensioners in the Poona and Satara districts during the year 1921-1922.

No child of a military pensioner received a scholarship during the year 1921-1922 in the Ratnagiri or Ahmednagar districts.

ADMISSION OF STUDENTS TO GOVERNMENT HIGH SCHOOL.

Mr. P. N. ADHAV (Satara District) : Will Government be pleased to give the following information :—

(*a*) Number of students admitted into the Government High School, Satara, from villages in the district outside Satara city and camp from March to June 1922 ?

(*b*) Number of free and half-freeships available for pupils of—

(*i*) Advanced classes ;

(*ii*) Marathas ;

(*iii*) Depressed classes ?

The Honourable Dr. R. P. PARANJPYE : (*a*) 32.

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

† *Vide* Appendix A.

(*b*) (*i*) 17½; (*ii*) and (*iii*) No free-studentships are reserved exclusively either for the Marathas or for the depressed classes. The number of free-studentships available for non-Mahomedan backward classes generally is 17½.

### MATERNITY BENEFITS AMONGST INDUSTRIAL WOMEN WORKERS.

*Mr. S. K. BOLE (Bombay City, North): Will Government be pleased to state (*a*) what progress has been made regarding the enquiry conducted by the lady doctor in connection with maternity benefits amongst industrial women workers in Bombay ?

The Honourable Sir IBRAHIM RAHIMTOOLA : The report of the lady Dr. (Mrs.) Barnes, Investigator of Women Industrial Workers, is placed on the table.†

### CUTTING OF MANGO TREES IN FORESTS.

Mr. S. K. BOLE (Bombay City, North): Will the Government be pleased to state whether fruit-yielding mango trees in the forests are allowed to be cut ?

The Honourable Mr. C. V. MEHTA : Sound fruit-yielding mango trees are not cut in the forests anywhere in this Presidency except in Thana and the Panch Mahals where the retention of such evergreen trees in clear-cut forest areas would be prejudicial to the growth of young teak plants.

### WATER SUPPLY FOR NASIK ROAD.

‡Dr. K. E. DADACHANJI (Bombay City, South): (*a*) Are Government aware that from Nasik Railway Station to King George's Hindu Sanitarium on both sides of the road leading to Nasik city, many bungalows have been built and several are in the course of construction and that owing to the failure of two successive monsoons there is a great scarcity of potable water and also of water for domestic purposes ?

(*b*) Will Government be pleased to state what measures they intend to adopt for the water supply of this portion of the newly populated locality ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Yes. The Government Central Distillery, however, supplies water to a few buildings. In the present financial stringency Government cannot embark on a large water supply scheme.

### SCARCITY OF DRINKING WATER IN BROACH DISTRICT.

Sardar Khan Bahadur ADARJI M. DALAL (Broach District): Are Government aware that in the Bara tract of the Broach district on the coast villages of Wagra, Jambusar and Amod chronic scarcity of drinking water and acute scarcity in the years of deficient rainfall prevail, necessitating cart service for water for distant villages and that the water grant given to the district local board is inadequate and out of proportion to the requirements and peculiar condition of those parts ?

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*This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

† Kept in Secretary's office.

‡ This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

The Honourable Dr. R. P. PARANJPYE: Attention is invited to the report* of the Collector of Broach, a copy of which is placed on the table.

NON-CO-OPERATION OF AHMEDABAD, NADIAD AND SURAT MUNICIPALITIES IN EDUCATIONAL MATTERS.

†Rao Saheb D. P. DESAI (Kaira District): Will Government be pleased to place on the table—

(1) the Government orders empowering the Commissioner, N. D., to take charge of all the municipal schools of Ahmedabad, Nadiad and Surat under section 178 of the Bombay District Municipal Act; and

(2) all the correspondence conducted by the Educational Department and the Government with these municipalities in the matter of their non-co-operation in educational matters leading to the suspension of the activities and the powers of the school boards of these municipalities?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN:

(1) This has been already replied to.

(2) Full statements on the matters referred to have been already published in the press. No useful purpose would be served by publishing the correspondence.

Rao Saheb D. P. DESAI: May I know what useful purpose will be served by not supplying the information?

The Honourable the PRESIDENT: It is a debating catch.

Rao Saheb D. P. DESAI: Sir, some doubt in the minds of the public will be removed if the correspondence is published, and that was the reason why I asked that the correspondence should be published.

The Honourable the PRESIDENT: The Honourable member is entitled to ask what the Honourable Minister means by "useful purpose". If the supplementary question is put in that form I should allow it; but not as it is put now as a debating catch.

Rao Saheb D. P. DESAI: Would the Honourable Minister say what he means by "useful purpose"?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: A full statement has already been published in the press; therefore no useful purpose would be served by publishing the correspondence.

The Honourable the PRESIDENT: The answer is there and so far as it goes you can draw any inference you like, and if you are not satisfied you can raise on a proper occasion a debate over it.

Rao Saheb D. P. DESAI: May I ask, Sir, whether these statements contain both sides of the case?

The Honourable the PRESIDENT: That is a matter of opinion, whether it is a judicial statement presenting both the sides. Every statement means, I think, all that can be said on the subject.

OFFICE ATTENDANCE OF COLLECTOR OF BROACH.

Mr. C. M. GANDHI (Surat City): Is Government aware—

(a) that the Collector and District Magistrate, Broach, hardly ever attended his office for transacting either his revenue or magisterial business;

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* *Vide* Appendix B.

† This question was asked at the meeting held in February 1922 when an *ad interim* reply was given.

(*b*) that parties and pleaders have on that account to attend at his residence far away from the town and that they are on that account put to considerable inconvenience and great expenditure ?

(*c*) Is it a fact that a pleader of Broach—of long standing—called at his bungalow on 29th August 1922 at 1-10 p.m. ,to present to him a criminal application on behalf of his client ;

(*d*) and that the District Magistrate not being in office, he waited outside the compound of the bungalow till 3 p.m. without being called in ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) The Collector's office at Broach is in his bungalow except for matters in which pleaders or the public appear, in which case it is at the public offices.

(*b*) His bungalow is not far from the town and is conveniently situated as regards railway station.

(*c*) A pleader did call at his bungalow on 29th August. It is not known at what hour he came.

(*d*) The District Magistrate was temporarily absent when the pleader sent in his card. He is reported to have waited not more than 15 minutes at most. If he waited outside the compound, it was of his own choice, as the Collector's official waiting room is his verandah where any visitor can wait.

Mr. C. M. GANDHI : May I enquire whether the Collector has got a separate office room set apart for his office at the bungalow ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Yes, I think he has.

Mr. C. M. GANDHI : Has he any stated time at which he can be seen in the office there ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Yes, I think he has.

Mr. C. M. GANDHI : What are the hours at which he can be seen ?

The Honourable Sir IBRAHIM RAHIMTOOLA : I cannot carry all the details in my head ; I want notice of the question.

Mr. C. M. GANDHI : Is it not a fact that the Collector's bungalow is about 2½ miles from the town ?

The Honourable Sir IBRAHIM RAHIMTOOLA : The distance has not been measured.

Mr. C. M. GANDHI : Not even by the P.W.D. when bills are made ?

Dewan Bahadur K. R. GODBOLE : I was in charge of the bungalow. Yes, the distance is about 2½ miles from the town.

Mr. C. M. GANDHI : If so, does the Honourable the Leader of the House consider that a very convenient distance for the Collector to hold his office ?

The Honourable Sir IBRAHIM RAHIMTOOLA : The answer has been given, Sir, namely that the Collector works as a Revenue Collector and as a District Magistrate, and when he has to discharge his work as District Magistrate, he attends his office in the town, and for revenue work he attends his office at the bungalow.

Mr. C. M. GANDHI : Does the Government approve of that, that public officers should hold their offices at their bungalows ?

The Honourable Sir IBRAHIM RAHIMTOOLA : My answer is a very simple one. Officers do their work at a place which is most convenient to the public and to themselves.

Mr. C. M. GANDHI: Will the same privilege be allowed to Indian subordinates to work at home at places convenient to themselves and to the public?

The Honourable the PRESIDENT: I do not know that there is any point in it.

Mr. C. M. GANDHI: I am only asking the Honourable the Leader of the House whether he approves of the practice and whether Government would also allow their Indian subordinates to work at their homes.

The Honourable the PRESIDENT: The point is whether Government approves of the practice. It is a breach of the Standing Order to ask Government's opinion in questions. Does the honourable member mean to ask whether, if the Collector chooses to use his bungalow as his office, every member of the public has not the right to see him there on business, whether magisterial or other? Is that the point?

Mr. C. M. GANDHI: No, Sir. Government say that their officers do part of their work at their bungalows and part at their offices. My question was whether Government would approve of a similar concession or privilege being extended further to the Indian subordinates.

The Honourable the PRESIDENT: Better put it this way: Has Government sanctioned such a procedure on the part of public officers?

Mr. C. M. GANDHI: Has Government sanctioned the procedure of the public officers holding their offices at their bungalows?

The Honourable Sir IBRAHIM RAHIMTOOLA: There is no sanction required. Government expect their officers to do their duties most efficiently. If they do not, Government takes them to task. The Collector is the head of a district and he has two separate offices where he discharges both the duties which he has to discharge, namely, as Revenue Collector and as District Magistrate, and the public can approach him if they want to, at either of those two places where he is always available during office hours.

Mr. C. M. GANDHI: Is it not a fact that (at this point the question was inaudible)?

The Honourable Sir IBRAHIM RAHIMTOOLA: Government is not aware of that.

Mr. C. M. GANDHI: Will Government enquire into that?

The Honourable Sir IBRAHIM RAHIMTOOLA: Government see no useful purpose by such an enquiry.

Rao Bahadur R. R. KALE: Is Government aware that a Collector can at any time be called upon to act as a District Magistrate during his office hours?

The Honourable the PRESIDENT: That does not arise out of this question. This question relates to a particular District Magistrate, not to District Magistrates in general. Notice must be given of this question.

Rao Bahadur R. R. KALE: The Honourable the Leader of the House says that the Collector works as a Revenue Collector at one place and as a District Magistrate at a different place. My question was whether Government is aware that the Collector may at any moment be called upon to act as a District Magistrate.

The Honourable Sir IBRAHIM RAHIMTOOLA: I think the honourable member has misunderstood my reply. What I said was that the Collector reads his files in revenue matters at his bungalow and that he attends to his

judicial work both at his bungalow and at the public offices. The answer is perfectly clear: "The Collector's office at Broach is in his bungalow except for matters in which pleaders or the public appear, in which case it is at the public offices." The honourable me ber cannot be unaware of the fact that as District Magistrate the officer has to discharge his duties sometimes during any part of the twenty-four hours. Does the honourable member mean to imply that because a District Magistrate may be called upon to discharge his duties as a magistrate at any time of the twenty-four hours of the day, he should always be found during all the twenty-four hours at the public offices?

Rao Bahadur R. R. KALE: What I meant was during office hours, from 11 to 5, or whatever the time may be, he may be called upon to hear an application for bail, and so on—not during all hours of the day.

The Honourable the PRESIDENT: Now it is becoming a debate. If there is anything in it, it may be a good point for asking the Honourable the Home Member to expedite the separation of judicial and executive functions, but not for asking a question.

### QUALIFIED AND TRAINED TEACHERS IN THANA AND RATNAGIRI DISTRICTS.

*Mr. IBRAHIM S. HAJI (Bombay City): Will Government be pleased to state the following:—

(*a*) number of qualified and trained teachers in Thana and Ratnagiri districts?

(*b*) number of Urdu schools in Thana, Ratnagiri and Kolaba districts?

(*c*) the names of villages in Thana, Ratnagiri and Kolaba districts which demand new Urdu schools?

The Honourable Dr. R. P. PARANJPYE: (*a*) Thana—563 (of these 298 are trained).

Ratnagiri—970 (of these 378 are trained).

(*b*) Thana—35, Kolaba—45 *plus* 12 classes, and Ratnagiri—55.

(*c*) The accompanying list † gives the required information for Ratnagiri and Kolaba districts. No new Urdu schools are demanded in the Thana district.

### HEAD MASTERSHIP OF DHARWAR HIGH SCHOOL.

Rao Saheb P. G. HALKATTI (Bijapur District): Will Government be pleased to inform:—

(*a*) from what dates the posts of the head master of the Dharwar high school and the Elphinstone high school have fallen permanently vacant?

(*b*) whether they are filled up by permanent men?

(*c*) if not, when it is proposed to appoint permanent men to these posts?

The Honourable Dr. R. P. PARANJPYE: (*a*) 15th January 1922 and 26th June 1922, respectively.

(*b*) No.

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*This question was asked at meeting held in July 1922, when an *ad interim* reply was given.

† *Vide* Appendix C.

(*c*) The sanction of the Secretary of State for India to the transfer of the post of head master, Dharwar high school, from the Indian Educational Service to the Bombay Educational Service has been applied for through the Government of India. On receipt of this sanction the post will be filled up permanently. The question of amalgamating the post of principal of the Elphinstone high school with that of vice-principal of the secondary training college is under consideration.

APPLICATIONS FROM MUNICIPALITIES FOR INCREASED GRANT.

Rao Saheb P. G. HALKATTI (Bijapur District): Will Government be pleased to inform :—

(*a*) what municipalities in the Bombay Presidency have applied for increasing their school grants to two-thirds of their expenditure on account of their financial stringency ?

(*b*) whether Government have sanctioned their applications if such have been made ?

(*c*) if not, why not ?

The Honourable Dr. R. P. PARANJPYE: Attention is invited to the reply given to a similar question put by Mr. S. T. Kambli at the present session.

DHARWAR CHOWDI MURDER TRIAL.

Rao Saheb P. G. HALKATTI (Bijapur District): Will Government be pleased to state :—

(*a*) The total number of days the Chowdi murder trial occupied in the court of Additional Sessions Judge of Dharwar in May and June last ?

(*b*) Who was the public prosecutor on behalf of the Crown ?

(*c*) Whether it is not a fact that the public prosecutor was assisted by two private pleaders engaged by the complainant and one police prosecutor ?

(*d*) Who were the private pleaders engaged and how many pauper pleaders engaged by Government, and what was the total cost for the Crown for conducting the case ?

(*e*) Whether it is not a fact that special remuneration is applied for by the public prosecutor in the case, and, if so, the rate of daily fees applied for ?

(*f*) Whether it is the intention of Government to sanction an enhanced rate of fees in view of the financial stringency existing in the Government ?

The Honourable Sir CHIMANLAL SETALVAD : 1 (*a*) 49 days.

(*b*) Mr. A. K. Katti.

(*c*) The pleaders engaged by the complainant gave instructions to the public prosecutor for some days during the trial but not throughout the trial of the case. The police prosecuting inspector also helped the public prosecutor.

(*d*) Messrs. C. C. Hulkoti and H. P. Suryavansi were the private pleaders engaged. Five pauper pleaders were engaged for the defence of the accused at Rs. 15 per diem each. The total cost to the Crown for conducting the case was Rs. 5,675.

(*e*) The public prosecutor applied for enhanced fees but Government do not consider it proper to state the amount asked for.

(*f*) A lump fee of Rs. 2,000 has been sanctioned for the public prosecutor for conducting the case.

INTRODUCTION OF RECORD OF RIGHTS.

Rao Bahadur R. R. KALE (Satara District): (*a*) In how many unsurveyed inam villages the Record of Rights has been introduced in the Central and Southern Divisions ?

(*b*) Will Government be pleased to place on the Council table a statement of such villages in the Deccan districts ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) and (*b*) The Record of Rights has been introduced in 13 unsettled inam villages of the Southern Division. It has not yet been introduced into any unsettled villages of the Central Division or of the Deccan districts.

Rao Bahadur R. R. KALE : I want to know why it has not yet been introduced into any unsettled villages of the Central Division or of the Deccan districts.

The Honourable Sir IBRAHIM RAHIMTOOLA : The matter is under consideration.

GIRLS' HIGH SCHOOLS IN SIND.

* Mr. G. H. KASSIM (Karachi City) : (*a*) Will Government be pleased to state if it is a fact that Government intend reducing the grants to aided Girls' High Schools in Sind from this year ?

(*b*) Are Government aware that if this is done, the Indian Girls' High School at Karachi, the only school open to girls of all castes and creeds in Karachi, will have to be closed down ?

(*c*) Are Government aware that if this school is closed, there is no other recognised school open to all girls where they can be educated ?

The Honourable Dr. R. P. PARANJPYE : (*a*) and (*c*) These parts have already been answered.

(*b*) This must be a matter of opinion, and the opinion expressed in the question appears to be probably correct.

(Mr. G. H. KASSIM asked a supplementary question which was inaudible.)

The Honourable Dr. R. P. PARANJPYE : The honourable member's question is a hypothetical one and therefore cannot be answered.

DIFFICULTIES CREATED AGAINST IRRIGATION IN SATARA DISTRICT.

† Sardar V. N. MUTALIK (Deccan Sardars and Inamdars) : (*a*) Are the Government aware that there is an unusual increase in the cases of cutting down standing crops, house burning, pulling down portions of wells so as to make them useless for irrigation or for taking water from them for drinking purposes, and of burning stacks of kadbi, in the Satara district, during the last two years ?

(*b*) Will Government be pleased to state if there is a series of such cases, so as to lead to the supposition of an organised effort for any purpose ?

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

† This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

(*c*) Have any steps been taken to trace the causes and to bring the offenders to book ? What is the cause if any attempt is made to trace it ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) There has been no unusual increase. There was a marked increase of the burning of kadbi stacks in 1920, but in 1921 there has been a decrease. The figures for the half-year ending 1922 show a decrease from the figures of 1920 and a slight increase on the figures of 1921.

(*b*) There seems no reason for such a supposition.

(*c*) Yes. The chief causes of these crimes appear to be the continual disputes about land.

### HIGHER POSTS FOR MEN FROM ARISTOCRATIC CLASSES.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars) : (*a*) Will Government be pleased to state whether any posts in the higher grades of services (of the grade of mamlatdars and above) are given to persons from the sardar and inamdar classes, and if so,

(*b*) how many of such persons are now in service in the various departments ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) This clause has already been answered.

(*b*) One in the upper division and two in the lower division of the executive branch of the Bombay Civil Service.

### EVICTION OF LAND OWNERS IN CHAWNI SHIKARPUR.

*Mr. B. G. PAHALAJANI (Western Sind) : (*a*) Is the Government aware of the notification issued by the Collector of Sukkur of his intention of evicting the land owners in Chawni Shikarpur, by notice even though their possession is ancient and before the Land Revenue Code came into existence in 1879 ?

(*b*) Is the Government aware of the opinion of its law officers obtained in 1895 that the revenue officers have no jurisdiction to evict except by a suit even in cantonment areas ?

(*c*) Will the Government state how the recent notification of the Collector is contrary thereto ?

(*d*) Will the Government state how many tenants and owners will be affected by the notification ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) The Collector has issued a public notice warning the occupants of Government lands in the Chawni held on resumable tenure as to the intended resumption of the lands.

(*b*) *and* (*c*) Government is not prepared to express an opinion as to the extent to which an opinion of a Government law officer is applicable to any subsequent case.

(*d*) 701.

(Mr. B. G. Pahalajani asked a supplementary question which was inaudible.)

The Honourable Sir IBRAHIM RAHIMTOOLA : The opinions of law officers are on files and they are always studied when every file is being examined.

* This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

Mr. B. G. PAHALAJANI : Is that sufficient ?

The Honourable Sir IBRAHIM RAHIMTOOLA : I can only give a general answer.

LOCAL BOARD SCHOOLS IN SIND.

*Mr. B. G. PAHALAJANI (Western Sind) : (*a*) Has the Government issued any orders for reduction of local board schools in Sind ?

(*b*) Will the Government be pleased to place them on the table ?

The Honourable Dr. R. P. PARANJPYE : In continuation of the reply given at the last session, enquiries made of the Director of Public Instruction show that some schools were closed in almost all the districts owing partly to low attendance and partly to want of funds. The question of reopening the latter schools is under consideration.

GRANT TO LOCAL BOARD SCHOOLS IN SIND.

*Mr. B. G. PAHALAJANI (Western Sind) : (*a*) Has the Government reduced its grant to local board schools in Sind ; if so, what is the difference between last year's and this year's ?

(*b*) Will the Government give the number of boys in each school so closed at the time of its closure ?

The Honourable Dr. R. P. PARANJPYE : (*a*) No.

(*b*) No schools were closed owing to the reduction of the Government grant.

(Mr. B. G. Pahalajani asked a supplementary question which was inaudible.)

(The Honourable Dr. R. P. Paranjpye's answer was also inaudible.)

USE OF GHEE IN SIND JAILS.

Mr. B. P. PATEL (Ahmedabad District) : (*a*) Is it a fact that ghee is used in preparation of vegetables in Sind jails to suit the habits of Sindhis ?

(*b*) Will Government be pleased to state if Sindhi prisoners in other parts of the Presidency are given the same concession ?

The Honourable Mr. M. H. W. HAYWARD : (*a*) In some cases only.

(*b*) No.

CONSTRUCTION OF AHMEDABAD KUHA ROAD.

Mr. B. P. PATEL (Ahmedabad District) : Will Government be pleased to state why the amount collected for the construction of the Ahmedabad Kuha road by levying certain amounts from khatadars is lying useless in the Government treasury since long and when will it be taken in hand ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : The Ahmedabad Kuha Road is a local board road and the district local board has allotted a sum of Rs. 20,000 this year for its improvement and the work is now in hand.

(Mr. B. P. Patel asked a supplementary question which was inaudible.)

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

(The Honourable Khan Bahadur Shaikh Ghulam Hussain's answer was also inaudible.)

VILLAGE CHORAS IN KAIRA DISTRICT.

Mr. J. B. PATEL (Kaira District): Will Government be pleased to inform this Council:—

(*a*) How many village choras in Kaira district are in a dilapidated condition?

(*b*) Do Government intend to repair them?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) There are 437 choras in the Kaira district of which 154 are in a dilapidated condition.

(*b*) Repairs will be undertaken as funds permit.

SHETSANADIS.

*Mr. R. G. SALGAR (Sholapur City): (*a*) Is Government aware that it has been held by the High Court of Judicature at Bombay that shetsanadis are the watandars and the lands assigned to them are watan lands?

(*b*) How many lands of the shetsanadis have been taken back by the Government under the resolution that the shetsanadis are not watandars during last ten years?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) The subject matter of the question is at issue in a pending suit (Suit No. 11 of 1919 in the District Court of Belgaum) to which the Secretary of State is a party.

(*b*) 298.

MULSHI PETHA LANDS.

*Mr. R. G. SALGAR (Sholapur City): Will Government be pleased to state (*a*) The number of *Khatedars* of Mulshi petha lands and how many of them have mortgaged their lands with the *sowkars*?

(*b*) to what caste do the creditors belong?

(*c*) how many *Khatedars* have accepted the compensation from the company and what is their caste?

(*d*) to what caste the *Khatedars* belong who have not accepted the compensation?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) The number of *Khatedars* of the lands in Mulshi petha to be acquired for the Nila Mula project is 2,259 and the number of *Khatedars* who have mortgaged their lands with *sowkars* is 1,200.

(*b*) The creditors belong to the following castes:—

Gujar, Brahmin, Prabhu and Maratha.

(*c*) The number of *Khatedars* who have accepted the compensation is 1,206 and they belong to the following castes:—

(1) Kunbi, (2) Prabhu, (3) Gujar, (4) Brahmin, (5) Maratha, (6) Sonar, (7) Chambhar and (8) Kumbhar, etc.

(*d*) The castes of the *Khatedars* who have not accepted compensation are the same as those given in (*c*) above.

*This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

NEW POST OF A SPECIAL DEPUTY EDUCATIONAL INSPECTOR.

* Mr. G. B. TRIVEDI (Thana District): (*a*) Was a new post of special deputy educational inspector to be filled up by a depressed class man created in 1921 for the districts of Poona, Satara and Sholapur ?

(*b*) Is it his duty to recommend opening of new schools for the depressed classes ?

(*c*) How many new schools did he recommend for being opened in 1922 ?

(*d*) How many of these are proposed to be opened ?

(*e*) If fewer schools than those recommended are to be opened, what are the reasons for not opening all as recommended ?

The Honourable Dr. R. P. PARANJPYE: (*a*) A new post of a special inspecting officer of the status of an assistant deputy educational inspector to supervise and encourage education among the depressed classes in the Central Division and to be filled up preferably by a man from these classes was sanctioned in 1920. In the first instance, the special officer was to deal with the three districts mentioned.

(*b*) Yes; one of his duties.

(*c*) Seven.

(*d*) One class in the Poona district if funds permit.

(*e*) Financial stringency.

AWARDS FOR LANDS ACQUIRED IN SALSETTE AND TROMBAY.

Mr. G. B. TRIVEDI (Thana District): (*a*) How many awards for lands acquired in Salsette and Trombay have been made by acquisition officers up to August 1922 ?

(*b*) How many of these have been declared ?

(*c*) How long will it take to declare the remainder ?

The Honourable Sir CHIMANLAL SETALVAD: (*a*) 820 in Salsette and 91 in Trombay.

(*b*) 585 in Salsette and 9 in Trombay.

(*c*) Of the remainder, 162 are in process of declaration, others are pending for various reasons including contemplated settlements with owners and the acquisition of the rights of the khot in certain villages.

NUMBER OF SAFES PURCHASED IN THE HOME DEPARTMENT.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will Government be pleased to state how many safes were bought by them during the last five years in the Home Department ?

(*b*) How many of these were of foreign make ?

(*c*) And how many of Indian manufacture ?

(*d*) And how many of the latter were bought from Messrs. Godrej and Boyce ?

The Honourable Mr. M. H. W. HAYWARD: (*a*) 7 safes.

(*b*) 3 safes.

(*c*) 4 safes.

(*d*) 1 safe.

POLO GROUNDS OF MAHABLESHWAR.

Mr. G. B. TRIVEDI (Thana District): (*a*) Does the polo ground of Mahableshwar belong to Government ?

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

(*b*) Is it not a fact that the assistant engineer, Public Works Department, of the Panchgani sub-division drew travelling allowance last year for supervising the work of the polo ground ?

(*c*) If so, under what circumstances was it drawn and what was the amount and under what rule of Public Works Department Code was it drawn ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : (*a*) This part has already been answered.

(*b*) No.

(*c*) Does not arise.

### INCREASED RATES ON PARCELS.

Mr. G. B. TRIVEDI (Thana District): (*a*) Are the Government aware that the B. B. and C. I. Railway and G. I. P. Railway have lately doubled their rates on parcels of fruits and vegetables and quadrupled those on grafts ?

(*b*) Are Government aware that this is likely to retard more lands from being brought under cultivation in several districts in Northern and Central Divisions ?

(*c*) Have they made any representation to these railway companies in this matter ?

The Honourable Sir IBRAHIM RAHIMTOOLA : The Agents, G. I. P. and B. B. and C. I. Railway Companies, report that the parcel rates were first increased in 1921 by the Indian Railway Conference and that they were further increased from April 1922, the total increase on old rates being only about 38 to 50 per cent. To meet the increased working cost the revised rates have been adopted on all Indian Railways. Up to 1917 grafts used to be charged at half parcel rates, but since 1st April 1917 this concession has been withdrawn by all the Indian Railways as decided by the Indian Railway Conference. On the G. I. P. Railway, however, fruits continue to be charged at half parcel rates.

### GURCHARAN LAND IN THANA DISTRICT.

Mr. G. B. TRIVEDI. ( Thana District ) : Will the Government be pleased to state what was the area of Gurcharan land in 1917 at Palghar, Mahim and *Alari* in Mahim taluka, Thana district ?

(*b*) How many acres were given away since 1917 ?

(*c*) Is the reduced area sufficient for the cattle of those villages ?

The Honourable Mr. C. V. MEHTA : (*a*) The Gurcharan area and the woodland protected forest area open for free grazing for each of the three villages in 1917 was as noted below :—

| | Gurcharan. | Woodland Protected Forest. | Total. |
|---|---|---|---|
| | A. g. | A. g. | A. g. |
| Mahim .. | 1,976 35 | 84 24 | 2,061 19 |
| Alliali .. | 204 15 | .... | 204 15 |
| Palghar .. | 175 38 | 23 37 | 199 35 |

(*b*) The Gurcharan area given for cultivation since 1917 is as follows :—

| | | Acres. | Gunthas. |
|---|---|---|---|
| Mahim | .. | 255 | 20 |
| Alliali | .. | 13 | 21 |
| Palghar | .. | 40 | 0 |

(*c*) As regards Mahim and Alliali villages, the area is still quite ample for the village cattle to graze, there being also khajan lands producing some grass and open to cattle for grazing in those villages. As regards Palghar, the original gurcharan area of the village itself was insufficient for grazing, but within a mile radius of Palghar there is ample gurcharan and woodland protected forest belonging to four villages affording grazing area for Palghar village cattle in common with those of the four villages.

### RESTRICTIONS ON GRAZING LANDS.

Mr. G. B. TRIVEDI (Thana District): (*a*) Are Government aware that some mamlatdars in Thana district have recently issued notifications restricting the rights of free use of grazing lands other than open forests ?

(*b*) What is the Government's justification for issuing such notifications ?

(*c*) Are the Government aware that thereby they are causing discontent amongst villagers ?

The Honourable Mr. C. V. MEHTA: (*a*) None of the mamlatdars in the Thana district has recently issued such notifications. It seems, however, from the tenor of the question that Mr. Trivedi refers to the notification issued by the mamlatdar of Mahim on 28th July 1922 regarding the necessity of obtaining permits for free grazing from the village officer concerned before 31st July 1922. Similar circulars to talatis warning the rayats accordingly were issued by mamlatdars of Kalyan, Bhivandi and mahalkari of Mokhada petha. The notification at Mahim is not properly worded as it becomes applicable to all the grazing areas, though it was intended to apply only to open portions of the reserved forests. The Collector has issued orders to mamlatdars to amend the notifications and circulars accordingly.

(*b*) Under No. 16 of the Grazing Rules for Thana Forests printed on page 345 of the Bombay Forest Manual, Volume II, village officers are to issue permits for free cattle and under rule 17 forest officers are to issue permits and collect fees for outside cattle. Rule 18 makes it obligatory on a herdsman to carry with him in the forests the grazing permits for his cattle. It was laid down by the Commissioner, N. D., in his No. P. III, dated 9th October 1890, referred to on page 342 of the Bombay Forest Manual, that if the owners of cattle do not take out passes and if the animals are driven into forests without a pass, they will be liable to be impounded and the owners prosecuted. Under the above rules and orders, villagers must obtain passes even for cattle grazing in open forests free of charge.

(*c*) The Collector has not received any complaint up to now and it cannot be said that the notifications are causing discontent amongst villagers.

### RESTRICTION ON REMOVAL OF INJAILI TREES.

Mr. G. B. TRIVEDI (Thana District): (*a*) Is there restriction in Thana district on the removal of (1) branchwood of injaili trees and (2) parched leaves by carts ?

(*b*) Does this restriction cause hardship to cultivators for rab purposes ?

The Honourable Mr. C. V. MEHTA : (*a*) (1) Branchwood is allowed to be removed from gurcharans subject to tahal rules printed in the Thana Woodland Code and if below 6" from all current coupes to cultivators in forest villages.

(2) Similarly dead leaves can be collected by head loads or cart loads from gurcharan and all open forests.

(*b*) There is no restriction except for removal from closed coupes. There is no hardship to cultivators for rab purposes.

### SALE OF INJAILI TREES.

Mr. G. B. TRIVEDI (Thana District) : (*a*) Are Government aware that injaili trees from gurcharan land of Mendhavan in Manor range, Mahim taluka, have been sold ?

(*b*) Is this according to usual rules ?

(*c*) Did the people of the village object to it ?

The Honourable Mr. C. V. MEHTA : (*a*) Government have approved of the suggestion to mark for clear felling one experimental coupe in each division of the Thana district. Accordingly the gurcharan of Mendhavan has been selected.

(*b*) It is not the usual rule.

(*c*) The villagers objected to the cutting of ain (Terminalia Tomentosa) only and this objection they withdrew on promise given that they would be given ain tahal from adjacent open forests.

### FOREST DEPÔTS IN THANA DISTRICT.

Mr. G. B. TRIVEDI (Thana District) : (*a*) Are forest depôts in Thana district generally closed between the months of April and November ?

(*b*) If so, what steps are Government taking to meet the demand for fuel during these months ?

The Honourable Mr. C. V. MEHTA : (*a*) Forest depôts in Thana are not closed between the months of April and November. The depôts at Bassein, Gokhivra and Virar remain open all the year round if the supply of wood available remains unsold. At the present moment there are large quantities of wood at Bassein and Gokhivra. One coupe is annually reserved for each depôt. The remaining depôts are closed between June and November because people have been in the habit for generations of storing their monsoon fuel during the months of April and May.

(*b*) Should a demand for fuel arise in the monsoon, villagers have the privilege of removing deadwood from open forest for home consumption. Moreover, fuel is always available at contractors' store depôts on the line and at bunders such as Sawta and Manor.

### REVENUE FROM PRIVATE FORESTS WORKED BY GOVERNMENT.

Rao Bahadur D. A. VICHARE (Ratnagiri District) : (*a*) Will Government be pleased to say whether the private forests worked by Government under an agreement between the inamdar or landlords and Forest Department are paying any net revenue or working at a loss ?

(*b*) Is there any definite object in retaining such unassessed forest area under Government if it does not fetch a net income less than an average land assessment in the vicinity ?

The Honourable Mr. C. V. MEHTA: (*a*) Of the inam forest lands managed by the Forest Department under agreements with the inamdars most pay a net revenue and none is worked permanently at a loss, though some neither bring a revenue nor entail a loss, being managed without extra establishment.

(*b*) The following are some of the objects in taking over the management of such lands by Government :—

(1) the protection of hill slopes from erosion ;

(2) the convenience of local supply ;

(3) the protection and improvement of neighbouring Government forests.

These objects make it worth while for the Forest Department to manage such lands even when the revenue derived from such management may be less than the average land assessment in the vicinity.

### DIFFERENCE IN SCALES OF PAY OF TEACHERS.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to say whether different scales of pay are proposed for the Brahmin and non-Brahmin village teachers in the Ratnagiri district ?

If not, what is the minimum pay on which a qualified non-Brahmin teacher can be engaged in a non-Brahmin village as well as a Brahmin teacher in a Brahmin village ?

The Honourable Dr. R. P. PARANJPYE: The answer to the first part is in the negative.

With regard to the second part, the minimum pay given to a qualified Brahmin or non-Brahmin teacher whether employed in a Brahmin or a non-Brahmin village is Rs. 25 as an assistant and Rs. 30 as an independent teacher.

### ASSESSED AND UNASSESSED AREA IN RATNAGIRI DISTRICT.

Rao Bahadur D. A. VICHARE (Ratnagiri District): Will Government be pleased to lay on the table the area of the Ratnagiri district under the following sub-heads :—

(*a*) Rabi and Bagait area assessed.

(*b*) Kharip area assessed.

(*c*) Unassessed culturable area.

(*d*) Unassessed unculturable area.

(*e*) Waste or kharaba area.

(*f*) Forest area.

(*g*) Unassessed Government area.

Will Government be pleased to lay on table the average assessment of rabi and kharif per acre ?

The Honourable Sir IBRAHIM RAHIMTOOLA :—

(*a*) 14,556 acres.

(*b*) 168,954 „

(*c*) 7,378 acres.
(*d*) } 704,819 „
(*e*) }
(*f*) 14,377 „
(*g*) 7,378 „

The average assessment of rabi and kharif land per acre is Rs. 1-9-11 and Rs. 3-1-8, respectively.

## PRESENTATION OF PETITIONS.

The THAKOR OF AMOD (Gujarat Sardars and Inamdars): Mr. President, I have to present a petition.....

The Honourable the PRESIDENT: Just give a very short sum ary of the petition.

The THAKOR OF AMOD: (Inaudible).

Mr. M. A. HAVELIVALA: We can't hear one word of what the honourable member is speaking.

The THAKOR OF AMOD: The first petition is from the Ahmedabad Talukdars' Association, the second one from the Thakore of Gajna, the third one from the talukdars of Dhanduka taluka, and the fourth one from the Surat and Broach Inamdars' Association. One petition is with respect to the question of doing away with the inamdars' constituency in the new Local Boards Bill; and the other three relate to the taxation question.

The Honourable the PRESIDENT: The House has heard these petitions presented. They relate to the Local Boards Bill. Does the House give leave that they be placed on the table?

The petitions ordered to be laid on the table.

Mr. V. A. DABHOLKAR: Mr. President, I ask for permission to present a petition from the Bombay municipal corporation, recommending the Government committee's report regarding the increments in the rents and the amendment of section 17.

The Honourable the PRESIDENT: Is it in the form of a petition?

Mr. V. A. DABHOLKAR: At a meeting of the corporation it was resolved.....

The Honourable the PRESIDENT: Everybody who comes here must come as a suppliant, whether it is a corporation or any other body or person, and present a petition through an honourable member in due form.

[At this stage the debate was interrupted under Standing Order IV, 1 (4).]

## Death of Rao Bahadur G. K. SATHE.

The Honourable Sir IBRAHIM RAHIMTOOLA: Mr. President, you will permit me to ask honourable members to place on record their sense of the great loss which this Council and the Presidency has sustained in consequence of the death of Rao Bahadur Sathe. He was a member of this Council for many years, both before and after the reforms, and I do not think that there can be any difference of opinion when I say that he rendered very valuable services to the Presidency during that time. He had many-sided public activities. As a member and president of the Sholapur municipality and as a member and president of the district local board, he rendered very useful services. During many years he devoted a great deal of his valuable time to the service of the Presidency and to the country, and I think it is a serious loss which the Presidency has sustained in his premature death. To those members of this Council who have been associated with him during his period of service, it is unnecessary

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to point out how very useful he proved in the many questions that have come up for consideration. I am sure honourable members will share with me the feeling of extreme regret at the premature loss of such a valued citizen.

Dr. K. E. DADACHANJI (Bombay City, South): Mr. President, I beg to associate myself with the views expressed by the Honourable the Leader of the House. The late Rao Bahadur Sathe was a very able gentleman. He always gave out what he knew best independently, not caring for one side or the other though a Government nominee on the Council. I was much impressed by his independence and impartiality. He was also an experienced gentleman with a lot of miscellaneous knowledge, and I deeply deplore the loss of such a valued member to the Council.

Mr. B. G. PAHALAJANI (Western Sind): Mr. President, I wish to express my deep regret and join the Honourable the Leader of the House in the expression of regret at the death of our late honourable colleague Rao Bahadur Sathe. I had the melancholy pleasure of meeting our departed friend at his residence at Sholapur on the 5th November, only a fortnight before his demise—pleasure because that was the privilege given to me to see him last—when he was very hopeful of his recovery and was on a fair road to complete recovery. Something happened since to carry him away. We are mourning his loss to-day. From my experience of his work on one or two committees I had the honour to serve on with him, I am personally of opinion that there were few so judicious, judicial-minded and impartial, and I agree with the Honourable the Leader of the House in his expression of the deep regret which the Council feels at the loss of such an invaluable member.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Mr. President, I associate myself with the sentiments expressed by the previous speakers at the death of Rao Bahadur Sathe. He was one of the wisest members of this Council. He was held in high respect and esteem. His death is a great loss to the Council.

Sardar Khan Bahadur A. M. DALAL (Broach District): Mr. President, I beg to associate myself with the expression of deep regret at the loss which the Council has sustained owing to the death of Rao Bahadur Sathe. In this Council I found him fair to both sides and logical, and in spite of his being a Government nominee his fairness endeared him to both sides of the House and his strong point was his sweet reasonableness. No mention is made by the previous speakers of his work as president of the Excise Committee. Had he lived and been allowed to finish his most urgent work, namely, the burning drink question, the work and the report would have proved a landmark to the Council and would have proved a valuable contribution to its solution. The Presidency has sustained a great loss owing to his premature death.

Mr. A. N. SURVE (Bombay City, North): Mr. President, on behalf of the Maratha and allied castes, I associate myself in the expression of regret at the untimely death of Rao Bahadur Sathe. He was a sincere worker and was not influenced by fear or favour in the discharge of his duty. He did not work on party lines. The interest and welfare of the public was always uppermost in his mind when business was being transacted in this House. By his death this House has suffered a great loss.

Dewan Bahadur K. R. GODBOLE (Poona District): Sir, I also wish to associate myself with the previous speakers in giving expression to the great loss which this Council and, I may say, the whole of the Bombay Presidency,

[Divan Bahadur K. R. Godbole]

has sustained in the premature death of my friend Rao Bahadur Sathe. I have known the late Rao Bahadur and his family for the last forty years. I had been watching his career, from his boyhood, and I have marked that he was throughout actuated with honesty and sincerity in all his work and dealings. As president, as the Leader of the House remarked, of the municipality of Sholapur, and president of the district local board, Sholapur, he has rendered great services to that district. I had occasion to associate with him in several committees in Poona, and I can bear testimony to the great wisdom and zeal with which he conducted the affairs of those committees. I agree with the previous speakers that the Council has sustained a great loss by the death of my friend the late Rao Bahadur Sathe.

Mr. M. A. HAVELIVALLA (Bombay City): Sir, on behalf of the Mahomedan community I beg to associate myself with what has fallen from the previous speakers regarding the death of Rao Bahadur G. K. Sathe.

Mr. B. V. JADHAV: Mr. President, I beg to associate myself with what has fallen from the Leader of the House and also the honourable members, who spoke before me. I became acquainted with Rao Bahadur Sathe, when I was appointed to the Excise Committee and he endeared himself to all who came in contact with him by his kind disposition. His death is indeed a very great loss both to the Abkari and Retrenchment Committees, and you will all agree with me that his death is almost a national calamity, and will leave a void which it will be hard to fill.

Question put and carried unanimously, all members rising in their places.

Mr. S. K. BOLE (Bombay City, North): Sir, I beg to move:

"That the resolution of regret which the House has now passed be communicated by the President to the family of the deceased."

Question put and agreed to.

## A BILL FURTHER TO AMEND THE BOMBAY RENT (WAR RESTRICTIONS) ACT, 1918, AND THE BOMBAY RENT (WAR RESTRICTIONS, No. 2) ACT, 1918 (BILL No. XV OF 1922).

*(As amended by the Select Committee.)*

The Honourable Sir CHIMANLAL SETALVAD: I beg to submit, Sir, the report of the select committee.

I beg to move, Sir, that the bill be now read the second time. When I moved the first reading of the bill in the last session of the Council I stated to the honourable members that the principal points involved in the bill were three. The first was as to the period for which the Acts should be extended. In the ordinary course the Acts would expire by the end of August 1923, and the question was whether it should be extended, and, if so, up to what period. The second point for consideration was the rate of increase to be allowed over the rents of January 1916 and the third point was the prevention of subletting and consequent profiteering by tenants. These points were considered by the select committee at their sittings which lasted for many hours. You will find in the report of the select committee that, with regard to the duration of the Act, it has come to the conclusion that the conditions in Bombay are different from those in Karachi, and that the Act should be extended up to 31st August 1924 in Karachi as regards all sorts of premises. With

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regard to Bombay, they propose that, as regards dwelling houses, the Acts should be extended to 31st December 1925, and that, with regard to office and business premises, the Acts should come to an end by the 31st August 1924. This conclusion was arrived at on the materials placed before the committee. So far as office premises are concerned it was thought that the Act need not be kept alive beyond August 1924 as the supply was overtaking the demand; as regards dwelling houses it was felt that the Acts should be kept in operation for a longer period. With regard to Karachi after hearing the honourable members representing Karachi who were on the committee, the conclusion was arrived at that with regard to all premises the Acts should come to an end by August 1924.

In dealing with the second question that arose, namely, the scale of increases to be allowed, there again, the select committee decided to differentiate between Karachi and Bombay. In the case of Karachi the scale of rents is apparently low when compared to Bombay. The select committee came to the conclusion that instead of having a uniform percentage of 33⅓ per cent. as proposed in the bill there should be a sliding scale, and the scale proposed by the select committee you will find in the schedule which it proposes to add to the Act. As regards Bombay, the scale proposed is as follows :—With regard to premises the monthly rental of which does not exceed Rs. 50, 15 per cent. is recommended ; as regards premises the rental of which is between Rs. 50 and Rs. 200, 20 per cent. is recommended. When the select committee recommends an increase of 15 per cent. it does not mean an increase of 15 per cent. over the persent standard rents. It is only an advance of 5 per cent. over them because the persent Act has already allowed 10 per cent. over the rent of 1916. With regard to premises the rental of which exceeds Rs. 200, but not Rs. 500 an increase of 25 per cent. is recommended and in the case of premises the rental of which exceeds Rs. 500, an increase of 33⅓ per cent. has been recommended. The reasons which operated on the minds of the members of the select committee were roughly as follows : Tenants occupying premises the rents of which do not exceed Rs. 50 are apparently poor and they require to be protected. The increase in their case should therefore be only 15 per cent. Then they take the premises the rental of which is between Rs. 50 and Rs. 200; in their case an increase of 20 per cent. is recommended. The tenants occupying these premises are hit pretty hard owing to the rise in the cost of living : their salaries and their incomes did not correspondingly rise. So, in their case the increase should be so regulated as not to be a burden. Then they recommend 25 per cent. with regard to premises with rentals between Rs. 200 and Rs. 500, for in their case there will be no hardship if they are required to pay 25 per cent. more. Similarly with regard to premises with rentals above Rs. 500, 33⅓ per cent. With regard to Karachi, the scale allowed is as follows :—With regard to premises the rent of which does not exceed Rs. 50, 15 per cent. ; between Rs. 50 and Rs. 100, 25 per cent ; exceeding Rs. 100, 33⅓ per cent.

Then with regard to the third point, namely subletting, the select committee have recommended that no subletting should be allowed beyond the term of the occupant's lease, except with the written permission of the landlord. They require the permission to be in writing in order to avoid disputes as to the fact of the permission.

Then honourable members will remember that at the time of the first reading of this bill representations were made by certain charitable bodies and also by the Registrar of Co-operative Societies, that charitable societies and

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co-operative building societies were very adversely affected by the provisions of the Rent Act. For instance, with regard to some of the Parsi Housing Societies it was pointed out that under their rules people, whose monthly income was under a certain amount, say Rs. 40, should be given a room on a certain minimum rent. But sometime after that in cases of some such tenants when their incomes went up to Rs. 200 and Rs. 300, their rents could not be increased; and they could not be ejected to make room for other really needy persons. With regard to co-operative housing societies a similar complaint has arisen.

There have recently been certain complaints about the buildings acquired by the City Improvement Trust. What happens with regard to the City Improvement Trust is this. The Improvement Trust have acquired certain premises, and in order to carry out their operations these premises have to be demolished. For the purpose of housing people to be displaced by the demolition of these buildings they have built new premises, but some of the tenants do not agree to the change and they refuse to vacate the old premises and they claim the benefit of the Rent Act, and the work of the Trust in this connection has come to a standstill. So, it has become necessary to exempt some of these premises from some of the provisions of the Rent Act. It is difficult to lay down in the Act itself any rules of general application which would cover all possible cases that might arise. The select committee therefore took the view that instead of attempting to enact in the Act any general rules, power should be given to Government to exempt any particular premises from the operation of all or any particular provisions of the Act. The select committee took the view, and rightly I should think, that that was the only way in which they could meet the case.

These are, Mr. President, the salient points that are embodied in the report of the select committee. The select committee are practically unanimous in their recommendations and I do trust, Sir, that the Council will adopt the bill as modified by them. I therefore move that the bill be read a second time.

Mr. A. N. SURVE (Bombay City, North): Sir, the Honourable Member in charge has placed before the House the modifications that this bill has undergone in the select committee, and I shall not take the time of this House in going over them again, but I shall place only the points of difference between the majority of the select committee and myself.

As to the first point, namely, that in Bombay the Act should be extended to December 31st, 1925, as regards dwelling houses and to August 31st, 1924, as regards business premises, I submit, Sir, that the conditions obtaining in 1918 and the conditions of to-day are quite different. In 1918 there was the war going on. Bombay was a port of embarkation for the troops and military supplies. The consequence was that troops had to be stationed in Bombay before their embarkation and their families used to visit Bombay to see them off. Therefore the military population and their families became an addition to the urban population and led to overcrowding. Secondly, the munition works were opened in consequence of which people from the mofussil were drawn to Bombay because higher wages were obtained there. The condition at that time was that Bombay had become a sort of 'El Dorado' where the King's coin was to be had for the mere gathering. Thirdly, in the year 1918 all parts of India were affected by the failure of rains and the people from the affected areas migrated into Bombay. About the beginning of the third

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quarter of the year 1917, the Health Officer of the Bombay municipality had estimated the population at 11 lakhs or about 2 lakhs more than the usual.

The Honourable the PRESIDENT: May I interrupt? Is the honourable member opposing the second reading of the bill on a matter of principle characterizing it as a bill which ought not to have been introduced and for which there is no necessity?

Mr. A. N. SURVE: Yes, Sir.

The Honourable the PRESIDENT: The answer cuts the ground from under the feet of the honourable member, because when the bill passed the first reading, the House affirmed the principle of the bill. Now on a motion for second reading the only relevant question is about: What is in the bill? not, What is outside it or ought to be in it?

Mr. A. N. SURVE: Sir, the bill as it was presented to this House recommended the continuance of the Act up to 1924. The select committee extended that period, and therefore it has become necessary for me to show why there is no necessity for extending the Act till 1925.

The Honourable the PRESIDENT: The honourable member is entitled to do that.

Mr. A. N. SURVE: So, I was saying that in the third quarter of 1917 the Health Officer of Bombay estimated the population at 11 lakhs but by the end of December 1917, it was estimated to have risen by four lakhs more. He had estimated that there were four lakhs more persons in Bombay than there was accommodation for. When the Rent Bill was first introduced into the Council, the Honourable Member in charge of the bill himself admitted that the normal population of Bombay had increased by three lakhs. And my point is, does that state exist to-day? I humbly submit that it does not. There is not the same pressure upon buildings that existed in 1918, and, therefore, there is no necessity to extend the Act for 3½ years. The population of Bombay according to figures given by the last Census Report is 11 lakhs 75 thousand, whereas in the year 1911 it was 9 lakhs 79 thousand. The increase between the years 1911 and 1921 is a little less than two lakhs. It follows therefore that in 1918 there was an extra population of four lakhs, and according to the last census the population of Bombay now is in excess by only two lakhs, *i.e.*, the pressure in 1921 was only half of what it was in 1918, and there is not much difference in the number of population of 1921 and of to-day. The *Labour Gazette* for the month of October gives some tables on page 15. There is one table which states that in the year 1911, 83 per cent. of the population lived in one room tenements, but the conditions in 1921 were different and only 70 per cent. of the total population are now living in one room tenements. That means that the congestion is diminishing. Then take the persons occupying two room tenements. In the year 1911 persons occupying two room tenements were 10 per cent., but in the year 1921 the people who occupied two room tenements were 14 per cent. There are similar other figures given there, but for my purposes it is quite sufficient to show that in the year 1921, overcrowding in Bombay was certainly less than what it was in the year 1911. In the year 1911 the terms 'overcrowding' and 'congestion' were not even heard of and in 1921 the conditions have improved, and yet one hears so much of them now-a-days that one is sceptical about their reality. I submit that according to the census figures I have cited there is not the same amount of pressure upon

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living accommodation in Bombay as there was in the year 1911 or 1918. For these reasons it is not necessary that the Act should be extended beyond two years.

The standard of living has risen. People who were content to live in one room now require two, *i. e.*, they want to live luxuriously. In a city where space is very limited, if people want to indulge in luxury in the matter of extra rooms, they must pay for them at the market rate and not at the rate fixed by the Rent Act. For this reason I beg to submit that the extension of the Act up to 1925 is not necessary.

Then, the second point is about the 33⅓ per cent. increase. I have worked out some figures in connection with this part of my speech and passed them on to the honourable member, the Director of the Labour Bureau for correction, and, as he has favoured me by correcting them, I shall read them to the Council. I admit that on paper the 33⅓ per cent. increase certainly appears very formidable, but if you go more closely into the matter, it really is not quite so big as it appears. In the family budgets collected by the Labour Office it is understood that rent claims 7 to 8 per cent. of the total expenditure in 1921 and if the 33⅓ per cent. increase in rent is given, it will mean an increase of 33⅓ per cent. not on the total expenditure, but only on the rent which forms only 8 per cent. of the total expenditure. Thus, if the 33⅓ per cent. increase is sanctioned, it will make the working class people liable to spend on rent only 10·4 per cent. of their total expenditure instead of 8 per cent. which they spend now. That is to say, an increase of 33⅓ per cent. rent represents an increase of 2·7 per cent. in the total expenditure. But this small expenditure is more than counter-balanced by the fall in prices of food-stuffs. The cost of food is a formidable item in the family budget. It claims considerably more than 50 per cent. of the total expenditure but for the sake of convenience we will take it at 50 per cent. only owing to a fall of 12·2 per cent. within the last twelve months (October 1921 to October 1922). In October 1922 people spent on food only about 46·7 per cent. of their total expenditure instead of 50 per cent. in October of 1921, which means a decrease of 6·1 per cent. in the total expenditure. If we take other items, *e. g.*, fuel, lighting, clothing, the prices of which have also fallen, then they are saving more than 6·1 per cent. of their total expenditure. If we look to the index of the cost of living, we will see a fall of 11·5 per cent. since October 1921 when it stood at 183 and in October 1922 it stood at 162 as compared with 100 in July 1914. But it is not my intention to weary the House with figures and detailed working of them. I shall content myself by showing that within the last twelve months, owing to the fall in the prices of articles of food alone, a working class family is saving on food about 6·1 per cent. of its total expenditure, and if it is made to pay an increase of 33⅓ per cent. in rent it will have to spend only 2·7 per cent. more of the total expenditure. If we deduct the 2·7 per cent. increase in the total expenditure owing to the increase in rent from 6·1 per cent. saving due to decrease in the food expenses, there will still be a saving of 3·4 per cent. of the total expenditure. That is to say, 33⅓ per cent. increase will be no hardship to them at all. Perhaps I shall make myself more clear if I leave percentages and give a concrete instance. Let us take the average income of a person to be Rs. 44 per month; and let us suppose that his monthly expenditure is Rs. 42. Then in October 1921 he spent Rs. 21 at 50 per cent. for his food and Rs. 18-7 in October 1922. That is, he has spent Rs. 2-9-0 less. For his rent at 8 per cent. on Rs. 42 he spends Rs. 3-5.

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If full 33⅓ per cent. increase in rent is given, he will have to spend nearly Rs. 4-8-0, instead of Rs. 3-5-0, *i.e.*, he will have to spend Rs. 1-3-0 more than before. As against this increase he has saved Rs. 2-9-0 in the cost of food. Thus, in spite of a 33⅓ per cent. increase in rent if it were given, he would have to spend Rs. 1-6 less this October than what he did in the same month of last year. In next January and February the prices of foodgrains are expected to fall still further. Therefore, my submission is that a full increase of 33⅓ per cent. will be no hardship on the lower middle classes or the working classes as the majority of the select committee fears.

In this connection let me refer to the Administration Report of the Bombay Presidency for the year 1920-1921. At page 67 will be found these remarks :—

" On the whole the condition of the labouring classes has been very satisfactory from their point of view but not from the employer's point of view. The earnings of the labouring classes enabled them to compete with the middle classes in their standard of living and they are inclined to become independent and restless and have less inducement than formerly to do a hard and honest day's work. The wages in the mill industry have increased 100 per cent. since the war. "

Thus you will see that if 33⅓ per cent. increase is given, the working classes will certainly in no way be oppressed, because the rent in Bombay is not more than Rs. 10 per month in the case of working classes. The number of people paying a rent of Rs. 10 and more is only 75,000 according to the electoral roll, whereas the rest of the people—and the population of Bombay city is about 11,70,000—are paying a rent which is less than Rs. 10. Therefore for the working classes there will be no hardship on them at all ; on the contrary there will be one gain ; when the working classes have sufficient money, they either absent themselves from work or spend it in undesirable ways, but if we make them work so as to meet the increased demand in rent made on them, they will work one day more. That will be an advantage and would lead to increase of production and of national wealth.

I now come to what are called the lower middle classes. May I know who these lower middle classes are ? I am told they are persons who have fixed incomes and who have to maintain a certain standard. I am told that clerks in this city form the lower middle classes. May I know what is their number ? The census returns do not give the number of clerks alone but they group in one class cashiers, accountants, book-keepers, and clerks in private offices and give their total as 44,000 souls. The clerks in Government service and in local bodies number 23,000. So, there is a total of 67,000 people who belong to the class known as the lower middle class. To save these people, to save one particular class, consisting of 67,000, are you going to exempt other 11 lakhs ? That is a question to be answered. I do admit that in the case of clerks having a small fixed pay, there is great hardship but the way to overcome it is not what the select committee recommends you to do.

The next point I should like to make is about the preferential treatment which is to be given to Karachi. The majority has recommended to give preferential treatment to Karachi in respect both of percentage of increase and of duration and the reasons given are : (1) there is plenty of room for expansion and (2) the rents there are lower. I submit that both these reasons are incorrect. In the *Labour Gazette* for the month of November 1922 on pages 18-19 some details are given about rents in Bombay and in Karachi. The predominant rents paid in Bombay by the working classes are from Rs. 3-8 to Rs. 5-8 for a single room and Rs. 7 to 10 for double rooms. As against this you will find that working classes pay Rs. 18-5 as rent in old buildings and if they happen to live in the new

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buildings, they have to pay Rs. 25 as rent in a locality in Karachi named Ranchore Line. In another locality in Karachi—the Ramswami—the rent given by working classes is Rs. 13-12 for old houses and for new houses Rs. 30. These rents are paid by working classes whose wages are given at something like three to four rupees per day, *i.e.*, a man who earns Rs. 3 per day and has to pay a rent of Rs. 30 per mensem has to spend more than a third of his income on rent alone.

If you take the rents in suburbs of Karachi you will find that in Keamari the monthly rent given is Rs. 4-2-0 for old houses and Rs. 6-8 for new houses, and yet the majority of the select committee maintain that the rents in Karachi are lower. I do not know if the word lower has changed its meaning, but I ask this House whether rents not exceeding Rs. 10 in Bombay are lower or rents varying from Rs. 18-5 in old buildings to Rs. 30 in new buildings in Karachi are lower. That is to be judged by this honourable House.

Now, as regards the second point that there is plenty of room for expansion. I admit that the area of Karachi is certainly three times bigger than that of Bombay. The area of Bombay is somewhere near 22 square miles and that of Karachi is 61 square miles, but what is Karachi? Karachi is a big place consisting of scattered localities here and there. It is not a solid compact town like Bombay–the 61 square miles area is only made up of scattered localities here and there and the rest are sandy places and dry beds of river which will not be ready for building upon unless they are developed. The Town Planning Act was extended to Karachi in 1915, but till to-day not a single scheme has been framed under it. When His Excellency the Viceroy paid a visit to Karachi in 1917, the Karachi municipality stated in their address that they could not expand on account of the cantonment coming in their way. They said "Allow us some portion of the cantonment which can be utilised for expansion". His Excellency the Viceroy very rightly pointed out then that before the municipality could ask him to give them some portion of the cantonment area, they should utilise their own land such as the dry bed of the river and develop it. I beg to submit to this House that in Karachi there is much land available but that land will not be ready for building purposes without development and the difficulty is that the municipality there is not financially in a prosperous condition to undertake development works. There is another difficulty, *viz.*, that the land there is given out on leases at a rent at which no builder would take it. Labour is prohibitively dear and in addition to that the municipality has made its land sale rules more severe than before with the result that no builder will come forward to take land on the terms offered. I have got here some figures which show the rate of erecting new buildings in Karachi. In the year 1915-16 new buildings erected were 115, in the next year they were only 59, in the year 1917-18 they were 68; for more recent figures I had asked the chief officer of the Karachi municipality who has informed me that as I had not remitted the search fee, the figures cannot be given. However, the figures I have quoted show that new buildings constructed in Karachi do not exceed more than 115 per year but the number of buildings that are put up in Bombay city are many times more.

I have prepared a list showing the number of buildings built in Bombay during the past ten years, and if the Honourable Member in charge wants to see it, I shall be happy to show it to him. According to that list the number of buildings built in 1918-19 and the two succeeding years are 887, 1,327 and 999.

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That shows that the rate of building buildings in Karachi stands no comparison to that of Bombay. Therefore, whether there is land or there is no land is not the question. The question is, are there builders ? And if there are no builders what is the use of land even if it existed ? Now, consider this question from still another point of view. The growth of population in Bombay and in Karachi, since 1911, is 18 and 35 per cent., *i.e.*, the population in Karachi is growing at double rate as compared to that of Bombay. Again in Karachi it is only the municipality that is working for the expansion of the city. In Bombay we have the Development Department, the Improvement Trust, and there is also private enterprise, and the result of it is that the supply is overtaking the demand. For these reasons if preferential treatment is to be given to any place it is certainly not Karachi to which it should be given, but Bombay.

Now, let us come to the sliding scale. It gives 5 per cent. increase in the case of tenements, fetching a rent of Rs. 50 and under per month, and 33⅓ per cent. increase for tenements which fetch a rent of Rs. 500 per month. Now, suppose that two capitalists with a capital of Rs. 5 lakhs each, start building in Bombay. One builds a bungalow for one family, and lets it at a rent of Rs. 500 per month. The other person, with the same amount of capital, builds five chawls which house, say, 100 families. According to the bill under consideration what happens is that the builder of the bungalow gets an increase of 33⅓ per cent. in the rent, whereas the chawl owner only gets an increase of 5 per cent.

The Honourable Sir CHIMANLAL SETALVAD : The Rent Act does not apply to new buildings, whether they be chawls or bungalows.

Mr. A. N. SURVE : That might be the case in regard to new buildings. But take the case of two persons one of whom built a bungalow and the other built chawls in, say, 1914. Who is better off to-day ? It is the man who built a bungalow and let it out to one family, and not the person who provided accommodation for 100 families by building chawls, and whose public services on that account are of greater value.

Now, it is said that the lower middle classes ought not to be touched in regard to the increases in rents. I do not know much about the conditions of clerks serving in commercial houses because the figures are not available, but I do know something about clerks serving in Government departments, and if you compare the pay bills of clerks in Government service for the year 1915-16 with what they were paid in 1921-22, you will find that the amount has increased by Rs. 2 crores and more, and if I translate them in terms of percentages, the clerks have obtained 105 per cent. increase in their pay. That is for the whole Presidency. If you take the Bombay Secretariat, you will see that the upper grade clerks have obtained an increase of 78 per cent. and the lower grade clerks an increase of 55 per cent. These clerks as well as clerks in commercial offices have obtained similar increases. I am told that in pre-war times a clerk started on a pay of Rs. 30 per mensem, now he starts on Rs. 50, *i.e.*, an increase of 66 per cent. But the index of cost of living is not so high now, therefore a reasonable increase in rent will not place any burden even on the lower middle classes.

Now, the select committee have been very generous to the landlords. They say that it is fair and desirable to secure the landlords an adequate return for their capital. Mark the words " their capital ". But the majority

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of the select committee have not considered the question whether the capital of the landlord is his own. I submit that it is not his own capital. He borrows his capital, and pays interest on it, and, as we have been told you have not taken care to control the rate of interest. What is the result? The result is that the rate of interest has increased by nearly 100 per cent., and the rent has increased only by 10 per cent. The result is that the landlords who were able to pay the interest on their borrowed capital out of the rents recovered, are not able to do so now. I can cite one instance which I know and which has taken place in Bombay. There is a landlord, who had one building and a plot of land, and the rent which he got for that building was Rs. 410. He desired to develop his property, and took a loan of Rs. 80,000 at 6 per cent., and built new buildings on vacant land. This took place in 1913-14. So, there is no question of speculation. This man got a rent of Rs. 520 from the new buildings and Rs. 410 from old buildings. Out of these Rs. 930 he had to pay Rs. 400 for interest on loan and Rs. 200 for insurance, municipal taxes and other small repairs. Thus he cleared a net profit of Rs. 300 per month. Later on the period of the mortgage expired. What happened then? He could not get the loan on the security of his property at 6 per cent. He had to pay 10½ per cent. interest and in addition he had to borrow Rs. 20,000 to pay the brokerage, solicitor's charges, etc., on the loan and for his family expenses. Thus he now pays interest at 10½ per cent. on a loan of one lakh. His monthly income now from rent with 10 per cent. increase is Rs. 1,075. His expenditure is Rs. 875 interest on loan, Rs. 300 municipal taxes, insurance, light repairs, *i.e.*, Rs. 1,175 per month. That will show that every month he is out of pocket to the extent of Rs. 100. Thus his property is a source of loss and not of profit to him and will remain so as long as Rent Acts exist. And why has all this happened? Simply because Rent Acts have controlled the rent but not the rate of interest.

Now let us consider how far the Rent Acts are working satisfactorily. They are protecting those persons who are in the actual occupation of old buildings, and not of new buildings constructed after 1916. The result is that, if the rent of a room in a new building is Rs. 35 or Rs. 40, the rent for the same accommodation in an old building is not even Rs. 10, but less than that. So, it is protecting only those people who are in occupation of old buildings, and no one else. In spite of the Rent Act, if a man wants to find out a room in an old building, he has to pay a heavy premium, and the whole money goes to the pocket of the outgoing tenant. In this way the incoming tenant is not at all protected by the Rent Acts. Under these circumstances it is a question for consideration whether the Act should be extended for another period of three and a half years.

The Honourable the PRESIDENT: I do not want to interfere with the arguments of the honourable member. He is now dealing with the question of the extension of the Act up to 1924. His arguments are perfectly relevant; in fact, I must compliment him for putting his case in so precise a manner. I will allow him to go on so far as he is relevant; but I must give him this warning: if and when the bill is read for a second time, and the clause as to extension is being considered, I will not allow him to repeat these arguments. I think he has got an amendment on this point. I will simply ask him to move his amendment, and then sit down. I think that will be borne in mind.

Mr. A. N. SURVE: I shall not labour the point any further.

The Honourable the PRESIDENT: The rule is that, if during the debate on a question an argument is urged and afterwards the Council has to decide the question, that argument should not be repeated.

Mr. A. N. SURVE: I shall place a few facts to show that we should be very cautious in passing this piece of legislation. The control of prices is quite different from control of rents. When prices were controlled the merchants were always sure of profits small or big whatever the prices may be. The case is different with the control of rent: it has worked very hardly on poor landlords. A merchant who was dissatisfied with the profits of a controlled trade can give it up and take another, but a landlord cannot give it up. Landlords who are solely dependent on their properties for a livelihood and those whose properties are mortgaged, are ready to sell their houses, but who is there to purchase them? Therefore we must not be unnecessarily harsh upon the poor landlords.

The last point I am going to deal with is as regards the preamble. The preamble of Act II of 1918 says "Whereas it is expedient to restrict in connection with the present War". Now, we are practically giving a fresh lease of life to that Act; therefore the question arises to which war the words "present war" refers. Moreover the expediency in 1918 was that the rent should be controlled in connection with the war. Is there war to-day? There is no war. The expediency to-day is the so-called famine of houses. (Famine indeed with 2,000 rooms vacant in the Improvement Trust properties.) It may be said that the preamble is not a part of the Act. Whether it is a part of the Act or not, as it is to be incorporated in the Act it will be upon the statute book and there should be no inaccuracy in it. This is a point for decision in the hands of the Honourable the President.

I would request the House to consider all the points that I have placed before them, and see whether it is expedient to extend the Act till 1925.

Finally, I wish to inform the House that the majority report is erroneous and full of untruths and misstatements and as its conclusions are based on incorrect information, I felt it my painful duty not to be a party to it. With the greatest regret I oppose the second reading of the bill. But before I sit down I thank the house for giving me a patient hearing. I am aware that I have wearied them with dry figures, but I had to discharge my duty. If I could have discharged it in a more fascinating manner it would have given me more pleasure, but it was not possible to do so.

*After recess.*

The Honourable the PRESIDENT: Order, order.

Mr. P. R. Cadell made the prescribed oath of allegiance and took his seat in the Council.

The Honourable Sir IBRAHIM RAHIMTOOLA: Will you allow me, Sir, to draw your attention to the fact that the ceremony of inaugurating the Bombay Industrial housing scheme is going to take place at 4-15 p.m. on the 6th, that is, Wednesday next, and it is to be performed by His Excellency. I think that honourable members would like to be present on the occasion. Under the Standing Orders it is for you to fix the hours of meeting from day to day, and I ask you, Sir, whether you will be pleased to fix such hours for Wednesday's meeting as would allow honourable members to attend the function.

The Honourable the PRESIDENT: As regards that, the power is with me, but I should like to consult the general wishes of the House as to whether they

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desire to attend the function. (After a short interval) I take it that they desire to attend, and I think that the best arrangement would be to sit on Wednesday from 12 to 3 and again on Thursday from 1 to 7, in order to make up for time lost.

Mr. V. A. DABHOLKAR: Mr. President, I rise to oppose the report of the select committee. Sir, we have not only to consider the report of the select committee but also the report of the committee that was appointed by Government on the question of the Rent Act. I declare the report of the select committee as one-sided. Without attributing any motives, Sir, I say that on the committee there are four or five up-country men—who I do not mean are incompetent for sitting in judgment on the question of the Rent Act that affects the city of Bombay—and six honourable members from Bombay who are the representatives of the rentpayers seeking election about three weeks hence to the municipal corporation from the ten rupees franchise.

Now, dealing with the report of the select committee I should like to point out, Sir, that it has been said by the select committee:

"After careful examination of the various considerations arising in this connection, we have come to the conclusion that the Acts should be extended to December 31st, 1925."

Sir, we are not aware what those considerations were, and we were not informed by the Honourable Member in charge of the bill what those considerations were. I am going to point out now the considerations that this honourable House should take into consideration in justice both to the tenants and to the landlords. Sir, further it has been admitted by the select committee as regards business premises: "It is clear that the supply has overtaken the demand and the rents have appreciably gone down." Now in the face of that admission on the part of the select committee is it right and just that they should ask this honourable House to extend the period for business premises till August 1924? I do not find any reasoning: on the contrary, the select committee should have come to this honourable House and said that the supply has overtaken the demand and the protection of the Rent Act should not be extended to business premises. Such a suggestion would have appealed to us, but in the absence of that suggestion, as I have said in my opening remarks, the select committee's report is nothing but a one-sided document.

Sir, as I have said before, side by side with the select committee's report we have to consider the report of the committee on the Rent Act that was appointed by Government. On that committee there were nine representatives of the tenants and a minority of the landlords. That report should be considered, Sir, reasonable in the interests of both. The honourable member who spoke before me informed this honourable House as regards the population during the war when such a measure was absolutely necessary and any personal interest ought to be subordinated to the general good. But now, have we any war, Sir? As the war is over, we expected from the select committee such amendments to the Rent Act as to have made good to some extent whatever loss the landlord class incurred on account of the Rent Act. On the contrary, by the way in which the percentage has been doled out, I find that the sympathy that the landlords have a right to claim has not been shown by the select committee. Unfortunately, Sir, in this House, we have not got the representation of the Bombay municipal corporation. It was rightly complained by the corporation that in dealing with measures affecting the city of Bombay in this Council the corporation are of late not consulted. If the representation of the corporation had been before this honourable House, I am quite sure, Sir, there was no necessity for me to speak at greater length.

The Honourable the PRESIDENT: That does not affect the honourable member's right to speak on behalf of the corporation if he likes. Members of the corporation who are also honourable members of this Council are as much as any other honourable member perfectly entitled to speak for the corporation in dealing with the question and to support its views or resolution.

Mr. V. A. DABHOLKAR: I shall do it, Sir, as you have permitted me.

The Honourable the PRESIDENT: It is a right, of every honourable member: there is no question of permission.

Mr. V. A. DABHOLKAR: As a member of the Improvement Trust and other public bodies, I shall exercise that right as you suggest, Sir.

Sir, in the second paragraph of their report, the select committee have shown their sympathy towards the landlords. This is what they say:

> "On the one hand we have to bear in mind that it is fair and desirable to secure to the landlords an adequate return for their capital taking into consideration the high rate of interest given by gilt-edged securities: on the other, it is clear that a heavy increase in rent would be a very great burden on the working and lower middle classes, especially the latter."

Sir, may I know in dealing with the five percentages and ten percentages, as they have put in the wording of the clause, whether the landlords get an adequate return? Sir, during all these years when the living had risen cent per cent., you have restricted the income of the landlord. At that time landlords could not make even five per cent., and you find only lip-sympathy on the part of the select committee dealing with these five and ten percentages. Is it fair for the select committee to do that if they admit that they must give sufficient and adequate return to the landlords?

The honourable member who spoke before me pointed out to this House that a certain landlord had borrowed money in the year 1919 when he was getting six per cent. and now when the time of the mortgage was over he had to pay a higher rate of interest and he has been really out of pocket. This, Sir, is not a solitary instance. There are many more such instances and even taking into consideration such facts, may I know from the Honourable Member in charge of the bill whether on these facts an adequate return is given on the capital? Sir, in my opinion, no consideration is at all given on the money invested by such landlords.

Now, Sir, coming to the Rent Committee's report which consisted of the Chairman of the City Improvement Trust, a body which has been created by Government for public purposes and is as such one of the richest landlords,—then it consisted of the Municipal Commissioner—nobody could have better ideas of the interests and requirements of the city than the Municipal Commissioner. Then third is the Collector of Bombay. And then on that committee there was an eminent Advocate, Mr. Bhulabhai Desai. Now, Sir, what was the recommendation of this committee which had been appointed by Government? Turning to page 4, paragraph 10 of the report, the House will find that the committee has reported.

> "*Increase of Standard Rent* (*section 2*).
>
> * * * The landlord has to pay more for repairs and for insurance without being able to recoup the extra cost from the tenant, and with the rise in the market rate of interest it is urged that landlords are entitled to a higher rate of interest on the capital they have sunk in their property."

Now has the select committee made any mention of the landlords who are compelled to pay for heavy repairs, or what are the costs of repairs in these days,

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in all the considerations which they have put in the heading of their report ? Did they give any consideration to the repairs ? If they had given consideration to these things they would not have made the recommendation that they have made. The select committee ought to have seen that when the landlords had to pay heavily for repairs, they must expect a higher percentage on their investment according to the amended Rent Act.

Sir, I will further point out to you by quoting a paragraph from the report of the select committee that they propose a sliding scale of increases, ranging from 15 per cent. to 33⅓ per cent., Sir, according to the latest English Act. This Act was introduced in Bombay after the English Act. The war conditions in England were more stringent than what they were in Bombay. So following the English Act it would have been more proper and fit if the select committee had seen the necessity of amending the Rent Act by proposing 35 per cent. increase for domestic premises and 60 per cent. increase for business premises. Now the Rent Committee has not only written what they thought but they have taken expert opinion and they state in their report :

" It therefore appears that on the analogy of the English Act the landlords under the Bombay Rent Acts are entitled to a substantial increase. To examine actual examples what would be the effect on the rate of interest received from the capital invested as on 1st January 1916 if the rents were increased by varying percentages over the 1916 rents. The results are as follows :—If a 5 per cent. net return was obtained in 1916 then in 1921 an increase of 25 per cent. (instead of 10) on the standard rent would yield a return of 6·11 per cent. on the capital ; a 33⅓ increase would yield 6·66 per cent. and a 50 per cent. increase 7·77 per cent. "

So, Sir, if 33 ⅓ increase is given as suggested by the Rent Committee what interest could the landlord get is 6·66 per cent. on his capital.

Now coming to the minutes of dissent to the report of the Rent Committee who had recommended 33 per cent. I should like to quote the minute of dissent of the Collector of Bombay who said when this committee was discussing the amendment of the Rent Act :

" There can be no doubt that the increase of 10 per cent. on the rent of January 1st, 1916, was too low."

Here again, Sir, in 1916 the percentage that was given was not on the rent of 1916, but was in many cases on the rent of so far back as 1905. And the facts show that since 1905 some of the landlords have received no increase from their tenants, and by the Rent Act Amending Bill if he is to get only 10 per cent., then you are shutting out the landlord for 17 years from getting any advantage from his property. Repairs are now two or three times their pre-war cost. What suggestion has the select committee made as regards repairs ? All that they have said is poor and middle class would suffer and that some adequate return must be given to the capitalists. What "adequate" return, they have not stated. Is it doing any justice to the landlords? Further coming to these poorer classes let me tell this House that in these days of the Rent Act the tenant is a landlord and landlord is a tenant. The cost of living has greatly increased and much force is brought on that argument for the middle, lower and working classes. Well, I believe in the opinion of the select committee the landlord has also to suffer owing to this high cost of living. It is admitted by facts and figures that even to-day there is rise of 50 to 60 per cent. Is it right, therefore, that the select committee should make a recommendation on the schedule of 5 per cent. ? And in that case where is the rise to come from ? Moreover, Sir, on account of this 10 per cent. a landlord is not in a position to put his house in order and as such the property suffers in the long run. So, under these circumstances it is but right for this House that they should make up their

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mind as to the one-sided recommendations made by the select committee and at the same time they should not forget the report of the Rent Committee which was before them at the time of the first reading.

Sir, it is said in the report of the select committee that it is a heavy burden if any increment is given to the landlord. Sir, may I know from the Honourable Member in charge of the bill what are the heavy burdens of the working classes ? It can be proved by facts and figures what were the wages of the working classes attached to the industry and what they are now. The increase in their wages is over 80 per cent., and the wages of the labour that is employed by the landlords for the repairing of the houses have gone up 200 per cent. If the working classes attached to the industry have got an increment of 80 per cent., and the other working classes have got an increment of 200 per cent., is it very difficult for them to give 23 per cent. out of the 80 per cent. and 200 per cent. ? I mean 23 per cent., like this, Sir. The Rent Act has given them 10 per cent., and the recommendation of the committee that was appointed by Government is for 23 per cent. extra. So where are the hardships, Sir ? I fail to understand where they are.

Then, the other question that strikes me is this and I put it to this honourable House as a common sense question, whether in these days of high wages, when there has been a 80 per cent. and 200 per cent. increase in the wages, these 5 per cent., 10 per cent. and 23 per cent. increases are equitable and fair for being given to the landlords. Then, Sir, much is made of the middle classes. The select committee in their report say that if the rent is increased, the law will hit the middle classes hard. How ? They have not been able to show. On the contrary, I say that there has been a rise in the emoluments of the middle classes of over 100 per cent. I got these figures as far as municipal clerical staff is concerned and in some of the commercial firms, and I find that a rise in emoluments is given to the clerks to the extent of 100 per cent. And furthermore, Sir, during what time have they got this rise ? During the period of the war ; and still it is being continued. If they have got so much increment in their emoluments and assuming that there is a rise of 60 per cent. in the cost if living, if they give 23 per cent. to the landlords out of the 100 per cent. increase that they have got, how much percentage goes out ? Sir, it will be 83 per cent. And still he has got 17 per cent. to save all for himself. Is it overburdening to the middle classes ? If so, I should like to know how, from the Honourable Member in charge of the bill.

Now, again referring to the special sympathy that the select committee has shown to the middle and the poor classes, may I know how many classes of landlords there are and what classes of landlords ? And they should not be led away only by the name "landlord". Sir, what are the facts and figures as put before the Rent Committee ? Out of 16,094 landlords in Bombay, property-owners, 7,469 do not get more than Rs. 300 per annum or Rs. 25 per month. And what class of landlords are these ? These landlords have got some dependents and as such I should not be surprised if the figures rise to something like a lakh or two. And what is their monthly income, Sir ? Rs. 25. Even a municipal sweeper in the street in these days gets Rs. 30 and if he happens to go on strike—a very easy instrument in his hands—he will have to be given a few rupees more. But here, Sir, when a landlord has got an inalienable right over his property, he has been getting only Rs. 25 out of his property. He has to pay municipal taxes ; he has to bear the burden of giving education to his children according to the standard of living. Whether all

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these facts were considered by the select committee, I should like to know. I repeat that this is a one-sided report. I say this because there were on that committee six representatives of the rent payers who are going to seek election three weeks hence, is it possible to get justice at the hands of such representatives of the rent payers ? Then, there is no wonder if the honourable member who spoke before me as a champion of the landlords should be in a hopeless minority. Can you not, Sir, class these seven thousand and odd landlords with Rs. 25 per month as their income as lower or middle classes or even lowerer classes ? I should class them even below the working classes. And what hue and cry are you making for the middle and the poor classes when you have got before you facts and figures to show that they have got an increase in their emoluments of 100 per cent., and 200 per cent. And I do not understand why the select committee should have made such a one-sided report.

Sir, I must exercise my right of introducing what passed at the last meeting of the Bombay corporation. At the last meeting of the Bombay corporation it was resolved that Government be recommended that the rent committee's report which recommended a 33⅓ per cent. increase be adopted. Sir, nobody knows better as regards the financial position of the city than that great body the Bombay corporation. Sir, it is but natural that if we try to curtail the income of a public body, as long as there is no increment in the rent, the revenue of that body must be less and we have to remember this fact that Bombay is full of dust nuisance and insanitation. Sir, if you are going to cut off the revenue, wherefrom do you expect the municipality to spend its money on the road repairs, and so forth ? But still the Bombay corporation has gone ahead and where they were spending fourteen lakhs of rupees in the year 1914, they are now spending more than thirty lakhs a year. Then, if you want insanitation to be removed, you must expect the corporation to have sufficient funds at their disposal; and here again, Sir, you are cutting the source of income of a public body. If it was right, as it was in the war time, certainly the corporation would never complain. But now in these normal times, which I am happy to say we are reaching slowly but surely, even in these normal times which we are approaching, can you not take into consideration the good of a public body whose existence in Bombay is for the good of the whole population ?

Again, the Chairman of the Improvement Trust has sent a letter which was decided at the last meeting of the Improvement Trust. If a public body like the Improvement Trust cannot face or overcome the tactics of tenants, is it possible for an ordinary landlord to combat against tenants ? And what has that public body written to Government, Sir ? That the Kolbhat Wadi scheme that was sanctioned some three years back—a regular slum area which was notified by Government four or five years back—there are 435 tenants ; to eject 100 it took one year to obtain the Rent Contoller's certificate and still there are 335 tenants who have to be ejected after the certificate from the Rent Controller. Over and above that there is a suit in which the Rent Controller may or may not give time. It is the Rent Act, as I was pointing out, that comes in the way of the smooth working of the Improvement Trust which has been constituted for the special purpose of improving the city and removing insanitation, to remove the thick population from the congested areas in which at present that population lives. Here you have got no ground to blame the Improvement Trust. You may say that if a bill was brought or a

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suit was filed by an ordinary landlord against his tenant, it may be construed as being due to his desire to make more money on his house as on a newly built house he can charge a higher rent, but here in these 435 cases, Sir, the Improvement Trust has got 800 single-room tenements vacant. They were offered to them for half the economic rent, *viz.*, Rs. 6 in order that these tenants should move from an insanitary area to a sanitary area. They would not take advantage of these rooms which were offered to them at Rs. 6 and thus are simply spreading insanitation and becoming the cause of increased mortality and take the lives of so many valuable citizens of Bombay. This is the gift that the city of Bombay got out of the Rent Act.

My honourable friend who spoke before me said something about the population. Sir, I am coming to the constructive point. Since 1916 how many new houses including godowns, shops, single and double room tenements on the Improvement Trust estates and on private estates have come into existence? If these figures had been taken into consideration by the select committee, I am quite sure that the report which is before the House would never have reached us, but as they have said that every consideration was given, I am pointing out that every consideration was not given and if I have to read to you some figures of the houses that were built on the Improvement Trust estate as well as on the municipal estates, I hope you will bear with me for a while. I am only taking the figures from the year 1919. In 1919 on the Improvement Trust and municipal estates there were 531 shops, 245 godowns, 1,121 one-room tenements, 899 double room tenements, 1,876 larger tenements, 340 servants' quarters; in 1919-20, 230 shops, 200 godowns, 551 one-room tenements, 450 two-room tenements, 990 larger tenements, 248 servants' quarters; in 1920-21, 105 shops, 132 godowns, 110 one-room tenements, 533 two-room tenements, 1,044 larger tenements, 92 servants' quarters; in 1921-22, 237 shops, 183 godowns, 1,106 one-room tenements, 637 two-room tenements, 1,089 larger tenements, 192 servants' quarters.

If there was a dearth of housing and if the Rent Act is going to be confined to the city of Bombay and the city of Karachi, I shall confine myself more to Bombay. It was the duty of the State to provide houses. The Improvement Trust or the Government failed in those days to see to the increasing population which was augmenting very fast. As a war measure this Rent Act was introduced, but now when houses are going up like anything, Government have also seen their mistake and have started their Development Department and they are going to have during this month 2,000 rooms ready and they are going at such fast speed that I should not be surprised that within the end of next year, out of the 50,000 tenements they intend building they will have built at least 10,000 tenements. If this accommodation is all available to us, is it right for the select committee to say that there is a dearth of housing accommodation and it will be a burden to the lower middle classes? The lower middle classes have been given accommodation by public bodies such as the Improvement Trust and the Development Department, and they do not like to take advantage of that increased accommodation, because one does not like to give up a gift the Rent Act has conferred. If you are going to keep the Rent Act any further, it will affect the working of the Development Department and their attempts will fail. People will never migrate to the north because they have got a fancy for a certain locality, they have got a fancy for a certain part of the city and owing to the Rent Act, even if they are asked to go to sanitary houses in a different locality they will not go. Perhaps it may be

[Mr. V. A. Dabholkar]

construed that rents in new houses are very prohibitive and as such it is hopeless for these middle and working classes to take advantage of such premises. The onus was on the select committee to show to this honourable House that rents are so very high that people cannot afford to pay, and it was their duty to show that on account of the prohibitive rents in new buildings tenants were thrown out on the streets, by distress warrants. What do we find ? We find that no new houses have been left vacant, they are all occupied because tenants have got better circumstances on account of the increase they have got. If all these facts were before the select committee may I know whether any consideration was given to the cause of the landlords ? I should also like to point out that in the new houses there are shops and also there are shops in the old houses. The renter of the shop in the new house may be giving a fancy rent and the shopkeeper in the old house has got protection by the Rent Act and pays the standard rent. If the shopkeeper in the new house with a high rent can afford to sell the goods in his shop at the same prices as the shopkeeper in the old house who has got protection of the Rent Act, is not the latter making more profit than the shopkeeper in the new house and does not that extra profit go into his pockets and does he not want to shut out that profit from the landlords because of the restriction of the Rent Act ? That shopkeeper in the old house therefore gets double advantage—one of reduced rent and the other, the extra profit that he makes. I do not wish to take long, it was but right that such a measure was quite necessary during the war, and as I have said before, that during such times personal interests must be forgotten. But, Sir, may I put it to this honourable House that for a most civilised Government like ours, is it right to stop the earning power of any minority ? Because there is a majority holding one view, the minority might have no say in the matter. Under these circumstances, I should like to oppose the report of the select committee, and respect the representations of the Bombay corporation and the Improvement Trust, whose wishes ought to have been consulted by Government, and support the amendments which the honourable member who spoke before me is intending to move with regard to the basis for the increase of rents.

Mr. G. B. TRIVEDI (Thana District): Mr. President, the honourable member who has just sat down has, I take it, read the report of the select committee. This House will see that it is practically a unanimous report, except for one dissentient voice. We have heard two honourable members putting before the Council the case of the landlords, and this House is in a position to fairly take into consideration the case of the landlords. At the time of the discussion on the first reading of this bill, it might be in the memory of this House that nobody wanted to be unjus' to the landlords. Nobody said any harsh words about them. Even the select committee say that they want to be fair to the landlords on the one hand, but on the other hand they say that they also want to take into consideration the grievances of the tenants. So, I say this House has kept a fair position, and the select committee has followed that line. On the one hand, they want to be fair to the landlords, but on the other hand they want to see that the grievances of the tenants are properly attended to. After hearing, at great length, the two champions of the landlords, it is high time that we now turned to the grievances of the tenants. It has been observed here that there are 7,000 landlords in Bombay, and that most of them are very poor. I do not accept it. The Rent Committee in their

[Mr. G. B. Trivedi]

report say that all of them are not poor. About 30 per cent. of them are poor widows and orphans. Therefore, in putting forward the case for the landlords, it cannot be said that these 7,000 people will be ruined if the Rent Act is extended. We are ready to take into consideration the hardships of the landlords, and it is for that purpose that a scale of increases has been introduced. We want to be fair to them. At the same time, as I put it last time, as against some of the widowed and orphan landlords who are poor, there are 12 lakhs of tenants, whose case must be considered. Are you going to be unjust to them and throw all of them on the streets, in consideration of the interests of about 3,000 poor landlords ? That is the whole position. As against them, there is the whole of Bombay, 12 lakhs of people who are tenants, and are we going to throw them to the mercies of competition ? As regards the question whether there is real distress or not, I will read from a pamphlet which was read only last Wednesday by a competent authority, an engineer of the municipality, who looks after this housing. This House can very well say whether it will hear and give credence to the pronounced opinion of a competent engineer who deals with these problems in the Bombay corporation, or they will hear the arguments of the champions of landlords.

The Honourable the PRESIDENT : Order, order. May I request the honourable member not to read any books, but to attend to the debate ?

Mr. G. B. TRIVEDI : I will now quote, in reply to the plea that was put before us, from a pamphlet by Mr. M. G. Joshi, assistant engineer, Bombay Municipality, and honorary secretary of the Parsi Co-operative Housing Society. On page 6 he says :

"Many more buildings are wanted for the poor class who are daily pouring in with requests for securing even one room for shelter.

Their distress for housing is heart-rending : widows and helpless women and other families come with ejection notices from courts and with Solicitor's notices on behalf of the landlords intending or rather pretending to occupy the buildings themselves or to pull them down on the ground of their being unsafe or of overhauling or remodelling them or turning privies into W.C.'s which they never dreamt of doing in former times except under compulsion from the municipality."

I think this picture will convince my honourable friends that there is heart-rending distress amongst the tenants, and that if the period of the Rent Act is not extended there will be a real crisis in Bombay, and that it is the duty of Government to come to the tenants' aid. I do not mean to say that the interests of the landlords should not be looked after, but as against these 3,000 poor landlords, there are 12 lakhs of people who want accommodation. Are you going to sympathise more with the 3,000 poor landlords or the 12 lakhs of tenants ? That is the whole question. The select committee, in my opinion, has erred on the side of moderation. I should have liked to read to this House a further quotation from the same pamphlet, but I do not want to trouble them with it. The opinion of this same engineer is that in order to house this surplus population of Bombay, 4,000 more houses are wanted, so that, even if the speed of building is accelerated, it will take eight years to build enough houses to meet the needs of these people. But if any attempt were made in this House to say that there should be no extension of the Act, we would.....

The Honourable the PRESIDENT : Order, order. The honourable member will see that the question before the House is not whether there should or should not be an extension of the Rent Act for a further period. The House has already decided that there should be an extension. The only question is

[The President]

as to the period, and both the honourable members before him, Mr. Surve and Mr. Dabholkar, addressed their arguments to the question as to whether the select committee is right in extending the period to 1924; their argument is that war conditions have practically ceased, and so it is not proper to extend the Act to three or four years more. I hope the honourable members will address themselves to that narrow point. Otherwise, we shall be travelling over the whole ground that was covered at the first reading.

Mr. G. B. TRIVEDI: It was the outcome of war, but there was and is a famine of houses in Bombay. That will not die out for 5 or 8 years. As it was pointed out, the Development Department will take 8 years more. Till then it is the duty of this House to see that, till the Development Department completes its programme, the rent does not go up. I will only quote one sentence from the Census Report. The Census Commissioner says that "the condition of housing in Bombay is worse than what it is in London." This one sentence is sufficient to put an end to any reference to the Census Report.

It was then argued why if houses are to be demolished the tenants do not remove themselves to the new buildings constructed by the Improvement Trust? I too was wondering why this was so; but I understand the reason for this is, that the Improvement Trust is going to charge higher rent. Who will consent to give up a house for which the rent is Rs. 6 to 7 and take up a house built by the Improvement Trust and pay a rent of Rs. 13 to 16? Then it was argued that the millhands receive higher wages. Are all working people in Bombay working in mills? Are there not peons and hamals and other people? Then we are told that the lower middle classes have got cent. per cent. increase. They got it, but the honourable members have forgotten that these are days of retrenchment, and that clerks are being turned out from Government service as well as from business houses. Most of the population consists of the lower middle classes. Is it desirable to turn them out in the streets? Those people who are getting Rs. 200 and Rs. 300, if they are asked to pay 50 per cent. of their income as house rent, it will greatly inconvenience them. I hope the House will not consent to extending the Act only up to 1925.

In the case of poor landlords, they have to depend on their rents. We have to sympathise with their lot. At the same time we have to consider the lot of the poor tenants also. It is the duty of the Government to protect the majority against the minority. The majority are the tenants, and I hope the Government will see that they are protected.

Mr. DIPCHAND T. OJHA: Sir, I move for the closure.

The Honourable the PRESIDENT: I accept the closure.

The Honourable Sir CHIMANLAL SETALVAD: I think, Sir, I need not much occupy the time of the House. The reasons why the select committee came to the conclusions it did, I stated this morning when I moved the second reading. Since then nothing has been said by members who have taken the opposite view to induce this Council to reject the recommendations of the select committee. The honourable member for Bombay North, Mr. Surve, dwelt on the grievances of individual landlords and the diminishing returns they were getting. But what the Council has to remember is that after all a restriction of this character which interferes with the ordinary law of supply and demand must work hardship in individual cases. That cannot be helped. What we have to see is the greatest good of the greatest number. I am aware that individual

[Sir Chimanlal Setalvad]

cases may be cited where hardship has resulted, but as I have said, in a measure of this character it is not the individual that counts. Therefore, looking to all the circumstances of the case, the select committee I think rightly thought that the Act should be extended to the periods mentioned. They also rightly held that the increase in rents should be graded in the way they have recommended.

An attempt was made by the honourable member opposite (Mr. Surve) to show that a landlord investing in chawls is worse off than a landlord who invests in bungalows. He said that a man who had spent a lakh of rupees in building single tenements or chawls is worse off than a landlord who had spent an equal amount in building a bungalow. Under the bill as modified by the select committee the landlord who spent a lakh of rupees in building a bungalow would be entitled to receive an increase of 33⅓ per cent., while a landlord who built chawls would get only 15 per cent. That was his argument. But there is an initial fallacy in that argument. The argument proceeds on the assumption that the landlord who has invested in a bungalow is getting from the beginning as much rent as the landlord who has invested an equal amount in building chawls. Probably a landlord who has spent Rs. 1,00,000, on a bungalow will get a monthly rent of Rs. 500. The landlord who spends an equal amount and puts up a chawl with, say, 100 single rooms, each unit costing Rs. 1,000, he will in all probability get a monthly rental of Rs. 1,000 at the rate of Rs. 10 a room. So the chawl builder gets much more rent than a bungalow builder. So that, the landlord who has invested in building chawls is initially much better off. If in these circumstances he is allowed a small increase and the other man is allowed 33⅓ per cent. that does not look unreasonable.

Then, the newly nominated member from Bombay referred to the loss suffered by the corporation by the decrease in the assessable value of buildings. But there again what the Council has to see is not the particular interest of one body. The corporation may be prejudicially affected to a certain extent by the Rent Act, but after all we have to see the general interest of the rate payers. Under all the circumstances the fairest arrangement seems to me to be what the select committee has proposed. With these remarks, I trust the honourable members of the Conucil will pass the second reading.

Bill read a second time. Question put and agreed to.

*Bill read clause by clause.*

Clause 2 [*Amendment of section 1 (4) of Bom. II of 1918*].

In sub-section (4) of section 1 of the Bombay Rent (War Restrictions) Act, 1918, hereinafter called the principal Act, for the words "during the continuance of the present war and for such period thereafter, not being less than six months and not exceeding two years, as the Governor in Council may by notification direct" the words "up to the 31st August 1924 in the municipal district and cantonment of Karachi; and in any other place in which the Act is in operation up to the 31st day of December 1925 in respect of any premises used as a dwelling-house and up to the 31st day of August 1924 in respect of any other premises" shal be substituted.

Mr. A. N. SURVE: Sir, I beg to move that—

In clause 2, lines 4—6, leave out the words beginning with "in the municipal district, etc." up to and including the word "premises".

When the existing Rent Act was passed it was clearly recognised that it was to be in force for the period of the war and for not less than six months

[Mr. A. N. Surve]

and not more than two years thereafter. That was the clear understanding. For that reason, this Act should not have been extended by an amending Act. If it is necessary to extend it, it could have been very well done by re-enacting it. That is one thing. The landlord has suffered very severely on account of this Act. The report of the Rent Committee has brought out how the tenants have abused the protection given to them and made profit (by sub-letting) which in justice belonged to the landlords. The latter have already suffered from the existence of this Act and if this Act is sought to be extended by a further period of one and a half years it will be a very great hardship on them indeed.

Then another point is that the Rent Committee which has gone fully into the matter has, after considering all the points, suggested that the Act should remain in force up to 31st March 1924. But the bill has extended that period by four or five months and the select committee has extended it still further, namely, up to 31st December 1925; but I have stated that there is no justification at all for the extension of the Act beyond August 1924. For this reason I have brought my amendment, namely that the Act should not remain in force after 31st August 1924. The Honourable Member in charge has suggested that this is an Act in which there is every likelihood of there being individual hardship. If there is that fear, then you must be very cautious in seeing that we do not extend it for a longer period than is absolutely necessary. If this Act is extended up to 31st August 1924 only the tenants will not suffer. It is admitted that the rents in the city are low in old buildings. The Improvement Trust charges Rs. 13 per room, whereas in the city similar rooms could be had for less. Therefore the Improvement Trust rooms remain vacant. This is another reason for not extending the period of the Act, because good many rooms are already available and at a cheap rent. Moreover, I am told that the Development Directorate is going to charge Rs. 13, 14, 15 and 16, according as the room is situated on the ground, first, second, and third floors; and corner rooms are to be charged something extra. Now, if the Development Directorate is going to charge Rs. 13 for the ground floor and the rate prevailing in the city is, as stated in the November *Labour Gazette*, Rs. 3 to 5-8 for single rooms and Rs. 7 to 10 for double rooms, then what would happen if this Act is kept in force till 1925? I say that the Development Directorate tenements will remain vacant as the Improvement Trust premises are vacant to-day. All know that the Development Scheme is being carried out of loan money and if the Development tenements remain vacant the result will be that the general taxpayer will have to be taxed to pay the interest on the loans for the sake of Bombay tenants. As the amending Act was to remain in force only for two years no improvements in the Act were made to safeguard the interest of the landlords. For instance take the case of landlords in England. Under the English Rent Act if a tenant uses the premises in a destructive way, then I think the Act states that it is a sufficient cause for making that tenant to vacate the premises. Such a provision is not to be found in our Rent Act. Similarly take the case of the rent controller's certificate. By this time every one knows that it takes months and months to obtain this certificate. What happens is that when a tenant knows that the landlord is going to apply for the certificate he locks up the room and walks away. The result is that the house owner is put to a great loss. Such cases are not provided for in the amending bill. For these reasons it is necessary that the Act should not be extended to 3½ years but

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that it should be extended only for two years. I hope that the House will accept my amendment.

Mr. KANJI DWARKADAS: Sir, I rise to oppose the amendment proposed by my honourable friend from Bombay. The reasons on which he bases his opposition are according to him that this measure was a war measure. But let me tell him, Sir, that it is nothing of the kind. If he refers to the debates of 1918 he will see the reasons for which the old Legislative Council passed this Act, and if he reads the speeches it would be very clear to him at once that the honourable members then passing this Rent Act knew, and they said as much, that this Act will have to be extended for a much longer period unless arrangements for housing schemes were completed, not merely undertaken but completed.

Mr. IBRAHIM S. HAJI (Bombay City): Sir, May I rise to a point of order? This amendment is out of order because the amendment states there should be no extension of this Act up to 1924, and he does not propose an amendment to suggest any other course.

The Honourable the PRESIDENT: The words "up to 31st August 1924" shall be substituted.

Mr. IBRAHIM S. HAJI: That is the period of the bill.

The Honourable the PRESIDENT: He wants to revert to the original bill.

Mr. IBRAHIM S. HAJI: The House has already passed the first reading.

The Honourable the PRESIDENT: There is nothing in the point. Honourable members of that Council knew very well and they said as much during the debate on the motion for first reading that this Rent Act should be extended for a much longer period. So the point was left open for the committee and second reading.

Mr. KANJI DWARKADAS: The Honourable Sir Dinshaw Petit, a representative of the landlords, himself said that the Act will be extended. That was his fear. And so, Sir, this also meets the second argument about the breach of faith which my honourable friend has advanced. The extension we are now proposing is in no way a breach of faith. We all know that the Rent Act has to be extended unless there is accommodation to house the population, the ever-increasing population, of this great city.

Then, as regards his third point that the tenants have abused their position, unfortunately in some cases tenants have; but does he not know that we are now penalising them by taking away their right to sublet the places which they are occupying? I am therefore of opinion that the honourable member's amendment should be thrown out.

Dewan Bahadur K. R. GODBOLE (Poona District): Mr. President, I also oppose the motion that has been placed before the House by the honourable member from Bombay. My argument is that I represent Poona district and from the enquiries that I have been making in the areas where the Rent Act prevails at present, namely, the suburban district and cantonments of Poona, I find that the persons affected want to get the protection of the Rent Acts for three years more at least, that is, up to August 1926. That is what they have been asking for, and I placed that view before the select committee, but as a matter of compromise I have agreed to the dates that have been put down in

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the select committee's report and I think those dates are absolutely necessary. The periods ought certainly to have been longer than the select committee's recommendation so far as Poona area is concerned. I therefore think that the Council will do well in throwing out the amendment of my honourable friend.

Mr. C. M. GANDHI: I move the closure.

The Honourable the PRESIDENT: I accept the closure. Does the honourable member from Bombay want to reply?

Mr. A. N. SURVE: No, Sir.

Amendment negatived.

Clause ordered to stand part of the bill.

Clause 3 [*New sub-section 1 (5) to Bom. II of 1918*] ordered to stand part of the bill.

Clause 4 [*Amendment of section 2 (1) of Bom. II of 1918*].

In sub-section (1) of section 2 of the principal Act—

(*a*) in sub-clause (*i*) of clause (*a*), for the words "ten per cent." the words "the percentage shown in the Schedule hereto" shall be substituted;

(*b*) to clause (*b*) the following words shall be added, namely:—

"nor any such building or part of a building or land which has not been at any time let as aforesaid before the 1st day of October 1922 or which has after the said date been let on a lease for a period of not less than three years"; and

(*c*) to clause (*d*) the following words shall be added, namely:—

"but does not include a rent-farmer in respect of any premises the farm of which has been taken by him after the 21st day of August 1922."

Mr. A. N. SURVE (Bombay City, North): Sir, the amendment standing in my name is as follows:—

"Omit sub-clause (*a*) and insert instead the following clause:—

'(*a*) in sub-clause (1) of clause (*a*) for the word 'ten' the words 'twenty-five' shall be substituted'."

And at the end of sub-clause (*a*) add the following proviso:—

"Provided that in the case of persons employed as clerks ....."

The Honourable the PRESIDENT: One thing at a time. First of all you have:

"Omit sub-clause (*a*) and insert instead the following clause:—

'(*a*) in sub-clause (1) of clause (*a*) for the word 'ten' the words 'twenty-five' shall be substituted'."

Now, that is not the way of wording an amendment.

"That the following words in sub-clause (*a*) of clause 4, namely, 'the percentage shown in the Schedule hereto" (line 3) be left out; to insert instead the words 'twenty-five per cent'."

Am I right? I have examined it and I have taken it down here, but you will have to test it.

Mr. C. M. GANDHI: The honourable member wants to move his amendment with the proviso.

The Honourable the PRESIDENT: The proviso will come afterwards. The honourable member cannot move the two together, I cannot allow that.

Mr. A. N. SURVE: Sir, my object in proposing this amendment is to secure a uniform rate of increase and I suggest that 25 per cent. is a reasonable figure for the increase. The proviso will come before the House afterwards. So the House has to consider only whether the 25 per cent. increase is a reasonable one or not. I have in my speech in opposing the second reading given

[Mr. A. N. Surve]

various reasons, and I do not want to restate them, but I simply want to state that the wages and the salaries also have been considerably increased. In 1916 the wages of a carpenter were something like one rupee. Now they are three rupees a day and therefore in the case of working classes and artisans there is absolutely no reason why they should not be charged a little more rent, and I think 25 per cent. is a very reasonable increase. With these words I leave my amendment in the hands of this honourable House.

The Honourable the PRESIDENT: Before I put the amendment, I shall explain to the House why I have not allowed the honourable member to move the proviso clause along with his amendment. It is because the proviso does not come immediately after the words which he wants to insert, but it comes after the words in the bill " shall be substituted ";—there is thus a gap between. You can form one amendment where words come successively one after another but you cannot jump over some words. That is the difficulty.

Amendment negatived. The proviso also falls to the ground.

Mr. A. N. SURVE (Bombay City, North): Sir, my next amendmet is:

" In sub-clause (*b*) of clause 4, line 78, omit the word 'three' and insert the word 'four'."

I think there is a mistake due to an oversight. In the original bill the duration was for two years, but the amended bill has extended it to three and half years. If the word " three " is allowed to remain here, the difficulty will be that a lease for three years commencing from October 1922 to September 1925 would take the building outside the scope of the Rent Act and for the remaining three months, October, November and December of 1925 will again subject it to the Rent Act. That would be an anomaly and it seems clearly to be due to an oversight. Therefore the word " three " should be changed to " four ". That is my amendment.

The Honourable Sir CHIMANLAL SETALVAD: Mr. President, may I point out that the apprehension of the honourable member that if the clause remains as amended by the select committee the premises leased for a period of three years from October 1922 would after the 1st October 1925 be governed by the Rent Act is ill-founded? Nothing of the sort. This clause purports to exempt all premises which have not been at any time let before the 1st October 1922 and also all premises which have after the said date been let on a lease for a period of not less than three years. To such buildings the Act shall not apply. Once you have a lease for three years the Act does not apply for all time. You cannot attract to those premises the application of the Act in October 1925. The honourable member need not be under any misapprehension. The proposal to extend the minimum period of lease to four years would bring under the Act immediately all leases for three years. The whole object of the select committee and of the original bill was to exempt tenancies under a long lease from the operation of the Act. The object is this; if a tenant gets a fixed tenure for three years, then in consideration of that he is prepared to pay a little higher rent and he should not be prevented from paying it and the landlord should not be prevented from taking it. Therefore this provision is with regard to tenants of premises which are let for a period of not less than three years after the first of October 1922. I would therefore ask the Council to leave the clause as it is.

Mr. A. N. SURVE: I beg leave to withdraw the amendment.

Amendment by leave withdrawn.

Clause ordered to stand part of the bill.

Clause 5 (*Amendment of section 9 of Bom. II of 1918*) ordered to stand part of the bill.

Clause 6 (*New Schedule to Bom. II of 1918*) ordered to stand part of the bill.

Clause 7 (*Amendment of section 1 (2) of Bom. VII of 1918*) :—

In sub-section (2) of section 1 of the (Bombay Rent War Restrictions, No. 2) Act, 1918, hereinafter called the subsidiary Act, for the words "during the continuance of the present war and for such period thereafter, not being less than six months and not exceeding two years, as the Governor in Council may by notification direct" the words "up to the 31st August 1924 in the municipal district and cantonment of Karachi; and in any other place in which the Act is in operation up to the 31st day of December 1925, in respect of any premises used as a dwelling-house and up to the 31st day of August 1924 in respect of any other premises "shall be substituted.

Mr. A. N. SURVE (Bombay City, North): Mr. President, I beg to move my amendment as follows :—

"Omit 53 words printed in italics which folllow the words 'August 1924' in clause 7."

My reason for moving the amendment is that the subsidiary Rent Act is penal and it inflicts punishments in criminal courts upon the landlords. Therefore, it should not be extended beyond 1924. The second reason is that, when the original Act was passed in 1918, we were able to do without the subsidiary Act which was passed many months after the first Act was passed, and if we were able to do without the subsidiary Act for so many months, then we can very easily do the same thing after the year 1924. It should be remembered that the principal Act would remain in operation and the tenants would not suffer. The third point is that if we leave the subsidiary Act in operation, the exchequer has to suffer to the extent of Rs. 36,000 every year in the shape of pay of the rent controller and his establishment. I submit that it is not right that the exchequer should be made to bear this additional burden in these difficult times. Its retention means taxing the whole Presidency for the sake of a few tenants living in the city of Bombay who are protected by that Act. With these words I leave the amendment in the hands of the Council.

Amendment negatived.

(At this stage the Honourable the President withdrew and Dr. Dadachanji occupied the Chair.)

Clause ordered to stand part of the bill.

Clause 8 [*New sub-section 1 (4) to Bom. VII of 1918*] ordered to stand part of the bill.

Clause 9 [*Amendment of section 2 (d) of Bom. VII of 1918*] ordered to stand part of the bill.

Clause 10 [*Amendment of section 13 (2) of Bom. VII of 1918*] ordered to stand part of the bill.

(At this stage the Honourable the President resumed the Chair.)

The Honourable the PRESIDENT: As regards the amendments proposed by Mr. Ibrahim S. Haji to insert after clause 10, clause 11, I rule them out of order. They create new offences; they are beyond the scope of the bill as passed at the first reading.

Mr. IBRAHIM S. HAJI: What about the second part of the amendment, clause 12?

The Honourable the PRESIDENT: I rule both of them to be out of order.

Mr. IBRAHIM S. HAJI: The second one does not creat a new offence.

The Honourable the PRESIDENT: The moment you bring in a magistrate, you give it a criminal flavour or savour.

Clause *1 (Short title) ordered to stand part of the bill.*

Preamble ordered to stand part of the bill.

Bill read a second time. The Honourable the PRESIDENT: I declare that the bill has passed the second reading.

Third reading. The Honourable Sir CHIMANLAL SETALVAD: Mr. President, I beg to move that Bill No. XV of 1922 (a Bill further to amend the Bombay Rent (War Restrictions) Act, 1918, and the Bombay Rent (War Restrictions, No. 2) Act, 1918, be now read a third time.

Mr. A. N. SURVE (Bombay City, North): Sir, will you please allow me to make a verbal amendment? I move

"to add the word 'solely' after the word 'premises' in clause 2, line 6."

The Honourable the PRESIDENT: It is not a verbal amendment. It may or may not create differences of interpretation. That I must leave to the courts, but it is not a verbal amendment. Therefore, I must rule out the amendment.

Bill read a third time. Question that the bill be read a third time put and agreed to.

The Honourable the PRESIDENT: The bill is read for the third time and I declare it passed.

## A BILL FURTHER TO AMEND THE BOMBAY PORT TRUST ACT, 1879. (BILL NO. XIX OF 1922).

First reading. The Honourable Sir CHIMANLAL SETALVAD: Mr. President, I move that Bill No. XIX of 1922 (a Bill further to amend the Bombay Port Trust Act, 1879), be now read a first time.

I take it that the honourable members are aware what the present constitution of the Bombay Port Trust is. The present board consists of 17 members in all, one being the chairman, 7 being elected trustees, and 9 nominated by Government. Out of the 7 elected members, 5 are elected by the Bombay Chamber of Commerce, and the other two are elected by such bodies representing Indian commercial interests as the Government may from time to time direct. Out of the 9 nominated trustees the Act provides that three shall be Indians, and in practice for some time past, the Government, before making these nominations of three members, have invited the municipal corporation of Bombay to nominate for selection by Government two members. The two elected members to represent Indian Commercial interests are elected by Indian commercial bodies like the Indian Merchants' Chamber and Bureau and the Millowners' Association by rotation. The municipal corporation has no right at present of direct election. Representations were made from time to time by the Indian Merchants' Chamber and Bureau and other bodies representing Indian commercial interests that the time had arrived when the Indian representation on the board should be increased and that the increased representation should be by election, and not by nomination. In order to meet that demand which Government consider reasonable this bill has been brought forward. Under this bill what is proposed is to make the total number 21 instead of 17, one being the chairman and twenty being members. Further, instead of the two representatives of Indian commercial interests, it is proposed to give five elective seats to the Indian Merchants' Chamber and Bureau

[Sir Chimanlal Setalvad]

exactly in the same manner as the European Chamber of Commerce. It is proposed also that two seats should be given to the Bombay municipal corporation directly for election, and one seat to the Millowners' Association also by election. In the present bill there are practically eight elective Indian seats, five by the Indian Merchants' Chamber and Bureau, two by the municipal corporation, one by the Millowners' Association. The nomination seats which are at present nine are reduced to seven. For the nomination seats Government have from time to time appointed officers whom they considered to be useful on the board, among them being the Municipal Commissioner, the Collector of Customs, the Director of Indian Marine, and under the Act you must have a military officer. The remaining seats have been given to the Agent, G. I. P. Railway, and to the Agent, B. B. & C. I. Railway.

Discussion has taken place in various places about the Commissioner being made an *ex-officio* member. The Municipal Commissioner had been for many years nominated usefully by Government, because his experience of the city was considered valuable on the board. That practice was in existence at a time when the Bombay corporation as such had no representatives. But during the last 4 or 5 years during which Government have asked the corporation to nominate two of their representatives to be nominated on the board, the necessity of having the Municipal Commissioner on the Port Trust side by side with two persons elected by the corporation has to a certain extent disappeared. The Government will always consider what are the best nominations to make, but it would not be right on the part of the Council to tie down the hands of Government by legislation. Therefore, we cannot accept the suggestion of making the Municipal Commissioner an *ex-officio member*. It must be recognised that we are giving two seats directly for election by the municipal corporation; side by side we are giving one elected seat to the Bombay Millowners' Association and five elected seats to the Indian Merchants' Chamber and Bureau the same as for the Chamber of Commerce. My submission is that the modifications embodied in the bill will show that the Indian element is now being increased and it is getting proper representation. For, after all, it should be remembered that the working of the port of Bombay and its prosperity is a matter of the greatest concern to the Indian community. Government, therefore, feel that the Indian representation on the Port Trust should be considerably extended, and it is from that point of view that they have brought forward the present bill, under which the Indian representation by election will be increased to eight. Even in the nominations there may be Indians. As I have pointed out, this is a considerable advance on the present state of things, and I hope the Council will pass the first reading. I move, Sir, that the bill be read for the first time.

Question put that Bill No. XIX of 1922 (A Bill further to amend the Bombay Port Trust Act, 1879) be now read a first time.

Mr. LALJI NARANJI: Sir, I congratulate Government on bringing a bill that will redress a long standing grievance of the Indian commercial community that they have not got adequate representation on the Bombay Port Trust. The bill shows that Government have made an attempt to satisfy the demand. The principle of the bill will be accepted by the Indian commercial community, but whether the details will be accepted or will satisfy the demand is another question. On the first reading of this bill I only propose to speak on the principle. In the statement of objects and reasons it is stated:

[Mr. Lalji Naranji]

"It has been represented to Government that the Indian representation on the Board of Trustees for the Port Trust of Bombay is inadequate." I congratulate the Government on having accepted the principle that the Indian commercial community must have their voice and be represented adequately on the Bombay Port Trust. But in the next sentence it is stated: "Granted that the interests of the European commercial community in the shipping and other matters with which the duties of the Port Trust are chiefly connected are very great, the Indian customers, who are served by the large shipping and export and import trade carried on by the European commercial community, are also vitally interested in the proper and efficient management of the port." Sir, I cannot admit that the interests of the European commercial community are very great: that is a very big question which affects not only the city of Bombay, but also other parts of India which are interested in the export and import trade of Bombay. I say that the affairs of the port of Bombay ought to be managed by the commercial community of this country. The present state of things is a legacy left to us by the East India Company which was a commercial company whom the present Government has succeeded. The statement therefore that the European community have got large interests is a question which is very arguable and debatable. On the surface it does appear so, but that is because of peculiar circumstances in which this country is placed so far as the administration of this country is concerned. The interests of the Indian commercial community have been purposely kept back for all these years. And even now I find that their interests have not been recognised in the way in which they ought to have been recognised. This bill is only an attempt, as I said, to redress a grievance which is long standing, but it is not sufficient, as I shall show later on. I fail to understand why the interests of the European community are very great. The interest of the European community looms large owing to the circumstance that the affairs of the government of this country is in the hands of these people. As far as the question of shipping is concerned, I trust honourable members have read the speech of the chairman of the Scindia Steam Navigation Company, and they will see there why the European shipping interests are flourishing in Bombay. Only a few days before now honourable members must have read also the speech of the shipping magnate who has come to India, and they must have noticed that he is not satisfied with shipping monopoly alone, and that he does not feel comfortable in the recommendation of the tariff committee. Shipping, banking, insurance, etc., are such big questions that I do not want to take time of this Council on these questions. These questions are so arranged that the interests of India are dominated by the European commercial community, and the Indian commercial community is not left free to look after their things in their own country. If it is argued by the European commercial community that they are more capable than Indians and that Indians are not capable, I will give only one answer: if so, why should they in the colonies keep out the Indians from competition?

The Honourable the PRESIDENT: We are not concerned now with Colonial questions.

Mr. LALJI NARANJI: I do not wish to bring that, Sir. I want to show that the interests of Indians are very big. Even in Africa, my own countrymen, the Cutchis have great interest, and I do not see that they are represented in the Port Trust there. Because we are British citizens, because our suzerain power is British.....

The Honourable the PRESIDENT: The honourable member is making his maiden speech, and I must give him some latitude, but I think if we go beyond the Bombay Port Trust Bill we shall be in deep seas.

Mr. LALJI NARANJI: I am not going beyond that. I am only complaining that where Indian interests are concerned.....

The Honourable the PRESIDENT: There are places where all those complaints can be made, but we are concerned with the Bombay Port Trust and the honourable member will be relevant so long as he refers to the Bombay Port Trust.

Mr. LALJI NARANJI: I only wanted to give an idea to honourable members about the statement that has been made by Government and about the assumption that Government have made that the interest of the European commercial community in the shipping and other matters are very great; and I do not support that statement.

The Honourable the PRESIDENT: I do not want to interfere so long as the honourable member confines himself to the Bombay Port Trust Bill, but if he traverses the colonies he raises a very large question beyond the bill and therefore not relevant.

Mr. LALJI NARANJI: I think I have made my point sufficiently clear and I am glad to see that the Government has accepted the principle that the Indian commercial community should be given increased representation on the Bombay Port Trust, and that they have brought in the proposed amendment of this Act. What they propose is as it looks on the surface that they are going to allot five seats for election by the Indian Merchants' Chamber and Bureau, 2 seats for election by the municipal corporation and 2 seats for election by the Bombay Millowners' Association. Now what was the state of things under the old Act? It was compulsory on Government to nominate 3 Indians out of the 9 nominee trustees. Now they have reduced that number of nominee trustees to 7. But they make a condition here that the provision requiring Government to nominate 3 Indians out of the nominee trustees should be repealed. So this right the Indians lose. Another point is that they are increasing the number of trustees from 17 to 21. Now out of the 17 the proportion of Indians was 5 and now out of the 21, Indians will get 8 seats, but that is also on the assumption that the representatives of the municipalty and the Millowners' Association will be Indians. Now at present we see that among the Millowners' Association there is no racial question, so far as Bombay is concerned. Of course, it may be a different thing in other places, but so far as Bombay is concerned we have no racial feeling in the Millowners Association, for we have sent Mr. Kay. So it is not necessary, or Government should not take if for granted that the Millowners' Association will send an Indian only. From the speech made by the Honourable Member in charge in moving the first reading I could understand that he took it for granted that both the municipality and the Millowners' Association will send Indians. I, therefore, do not like this improvement. I do not think that Government should take it for granted that the Millowners' Association will only send Indians. So if Government assumes that there are eight members under the new Act there will be only 5 against 5 seats that they enjoy; because 3 are nominated under the old Act and 2 were nominated by the Indian commercial community. So the Indian commercial community is not at all benefited by this new Act. I will refer these matters of detail to the select committee when this bill is referred to the select

[Mr. Lalji Naranji]

committee. At present I only want to draw the attention of this House to these points. With these remarks I support the first reading of the bill.

Mr. G. B. TRIVEDI (Thana District): Sir, I congratulate Government on recognizing the justice of the demand of the Indian Merchants' Chamber in asking for a seat on the Bombay Port Trust. As regards the principle of the bill I must point out that the Indian Merchants' Chamber not only asked for an increased representation but it asked for a clear majority of Indians on the Port Trust on the ground that the Port Trust is a public body in which Indians have more interest, firstly because they are as producers and as consumers interested in the import and export trade of not only Bombay but of the whole of India; secondly that 16,000 employees of the Bombay Port Trust are Indians; and thirdly that the Port Trust has got certain monopolistic rights in land and sea-shore in which also we Indians are interested. Therefore I plead that the bill when it goes to the select committee should be so improved on those lines that the bill should provide that there should be a clear majority of Indians on the Port Trust, and I base my claim not only on the importance of Indians and Indian element in the employment of the Port Trust, but I base my claim on the higher principle that has been recognized in higher spheres of administration, namely that it is the intention of Government to associate more and more Indians with the administration of the country. When therefore a public body is created by a statute by Government for the management of a certain estate, it is but legitimate that Indians be associated more and more in the administration of that body and get a clear majority as in the reformed councils, is it not but fair that you should ask that the Port Trust, a body which deals with the trade not only of Bombay but of all India, should have a clear majority of Indians? And had it not been as my honourable friend just now remarked that the Europeans were here as pioneers of commerce and trade, it would have been but legitimate that Indians would have this commerce and trade in their own hands. I do not raise this question at all from racial point of view. What I want is that now that we are capable of managing our own estates, why should we be debarred even for a single day from having our vocie felt, and we cannot have that voice felt unless we have a clear majority. So what I plead is that we must have now an opportunity of having our voice felt in the management of the Port Trust which deals with the Indian trade both export and import. And here I take the instance of the port authorities of London. I have just now looked how it was constituted and I find that there is one chairman, one vice chairman, then there are 17 elected members, elected by those who pay wharfage by way of fees, and 10 appointed by public bodies, so that the Government appointment is restricted only, if I am right, to the Admiralty and the Board of Trade and one Trinity House, whereas the municipal body, the London County Council have got four and the city corporation have got two seats. So we see, Sir, that in the first port of the empire we have hardly any Government nomination—very little—whereas it is the trade which represents and forms the port authority of London. Should we not then claim that similarly here also the management should be in the hands of those who undertand the trade, who are interested in the trade and who manage the trade? And then let them be Europeans, let them be Indians, I do not mind. But what I observe is that Government are making too much of the matter by saying that all the shipping is in the hands of the Europeans. But then what are the facts? The European houses here are like commission agents. They are not the sons of the soil, interested in the development of the trade and industry as much as the Indians

[Mr. G. B. Trivedi]

are. They have got their eyes somewhere else. Therefore, it is the Indians who would look to the development of the trade, who will see that the Port Trust make proper rules and regulations for the development of trade, that they do not levy prohibitive fees, that they do not make trade impossible by making the transportation of goods from the bunder to the railways or other places prohibitive and that such hindrances are removed. They can be removed only by Indians and not by Europeans, because European merchants are not interested in the same way as the Indian merchants. The European merchants are not concerned whether the people handling the goods incur more expenses or less expenses because it is on behalf of their clients that they work and the clients are Indians. It is not the European house that is out of its pocket. Last year the European chamber of commerce itself protested and pointed out that the Port Trust rules were such that if the goods were left in the Port Trust warehouses or premises for two or three months, the Port Trust fees amount to so much that the value of the goods is lost. This is the complaint of the European chambers; so that you can understand, Sir, that although the Europeans protest against it, it is the Indians who suffer. It is not the European house that pays out of its pocket. If it pays, it pays only on behalf of the Indian commercial houses to be ultimately recovered from them. Therefore, ultimately Indian commerce suffers.

Secondly, from the question that I have put in the Council the House is quite aware that the present management of the Port Trust is so costly that it cannot but lead to the increase of fees. We have seen from the question put by my honourable friend representing the Bombay Mahomedans and also from the debate that was raised in the Council of State by the Honourable Mr. Phiroze Sethna that there are only 6 Indians holding posts of over Rs. 500 in the Port Trust out of 113 big and high officers of the Port Trust drawing Rs. 500 and over. Is it not a very costly administration? Do we not.....

Sardar Davar T. K. MODI (Surat District): I rise to a point of order, Sir. Whether the administration of the Port Trust is costly or not, and whether the Indians holding higher posts in the Port Trust is large or small, is not relevant to the present matter.

The Honourable the PRESIDENT: It is relevant to the question as to whether there ought to be a majority of Indians in the Port Trust to make its administration more economical.

Mr. G. B. TRIVEDI: In these circumstances, Sir, should we not press for economy and for more posts being thrown open to Indians rather than to Europeans, so that the cost may come down? I say so on behalf of the trade. If you send such people on the Port Trust who understand the interests of the trade—let it be European or Indian I do not mind—what I mean is that Indians have the greatest stake in the trade, greater than the Europeans who are more or less like commission agents.....

The Honourable the PRESIDENT: The honourable member will be good enough not to repeat his argument.

Mr. G. B. TRIVEDI: So I have dealt with that argument and I have shown also how the port authority in London is constituted, and I further submit that in no country in the world is there a provision made that outsiders should administer the ports of the country. Here also that principle should be recognised. I do not mean to say Englishmen are an outside interest, but

[Mr. G. B. Trivedi]

then when the claim is magnified and it is said " Oh, there are shipping concerns and other concerns who are almost wholly European " and so on.....

The Honourable the PRESIDENT : This is all repetition, Mr. Trivedi.

Mr. G. B. TRIVEDI : So I say, Sir, that nomination ought to be reduced. Perhaps, I do admit, there is necessity of representative of the Royal Indian Marine on the Port Trust, but I fail to see why there should be a nomination of railway management. If there are railway questions to be considered, managers can be consulted, but why do you want the railway representation on the Port Trust ? On such questions as to whether the administration is to be indianised or not, of what earthly use are managers of railways ? So I say when there is any question of railways, they may be consulted, but we do not want that they should be represented on the board. We want that there should be election and all election of business men and traders. Therefore, I press this House that we must insist on a clear majority of Indians on the Port Trust.

Mr. KANJI DWARKADAS : Mr. President.....

The Honourable the PRESIDENT : The Council is adjourned till 2 p. m. to-morrow, Tuesday the 5th December 1922.

*Tuesday, the 5th December 1922.*

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The Council re-assembled at the Town Hall, Bombay, at 2 p.m. on Tuesday, the 5th December 1922, the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BEDREKAR, Khan Bahadur I. M.
BELL, Mr. R. D.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CADELL, Mr. P. R.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHITALE, Rao Bahadur G. K.
COCKE, Mr. H. G.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DABHOLKAR, Mr. VASANTRAO ANANDRAO
DADACHANJI, Dr. K. E.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DRAKHAN, WADERO MAHOMED PANAH
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI
GANDHI, Mr. C. M.
GAYASUDDIN JAUDDIN, Mr.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Honourable Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GODBOLE, Dewan Bahadur K. R.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.

Halkatti, Rao Saheb Phakirappa Gurubasappa
Hatch, Mr. G. W.
Havelivala, Mr. M. A.
Hayward, The Honourable Mr. M. H. W.
Hepper, Sir Lawless
Hood, Mr. A. J. F.
Jadhav, Mr. B. V.
Jennings, Major General W. E.
Kalbhor, Mr. G. M.
Kale, Rao Bahadur R. R.
Kassim, Mr. G. H.
Lalbhai Ambaram, Mr.
Lalji Naranji, Mr.
Lawrence, The Honourable Mr. H. S.
Lory, Mr. F. B. P.
Mead, Mr. P. J.
Mehta, The Honourable Mr. C. V.
Modi, Sardar Davar T. K.
Mohomed Salahuddin K., Mr.
Motiram, Rao Saheb Rupchand
Murphy, Mr. S. J.
Mutalik, Sardar V. N.
Nelson, Mr. F.
Nilkanth, Rao Bahadur R. M.
Ojha, Mr. Dipchand T.
Pahalajani, Mr. B. G.
Paranjpye, The Honourable Dr. R. P.
Parulekar, Rao Saheb L. V.
Patel, Mr. B. P.
Patel, Mr. J. B.
Pawar, Shrimant J. A.
Pradhan, Mr. M. W.
Proes, Mr. E. M.
Rahimtoola, The Honourable Sir Ibrahim
Saherwala, Khan Saheb I. A.
Salgar, Mr. R. G.
Setalvad, The Honourable Sir Chimanlal
Shirras, Mr. G. Findlay.
Sindore, Mr. H. N.
Surve, Mr. A. N.
Thakor of Amod, Sardar Naharsinghji

THOMAS, Mr. G. A.
TRIVEDI, Mr. G. B.
WOODS, Mr. E. E.

PRESENTATION OF PETITIONS.

Mr. DIPCHAND T. OJHA (Karachi City): Sir, I present this petition on behalf of the proprietors of theatres and cinemas of Karachi. The select committee has recommended that tickets up to six annas should be exempted from the proposed tax. In Karachi there are tickets valued at four and eight annas. Therefore the proprietors of cinemas and theatres of Karachi pray that tickets up to eight annas should be exempted. I therefore ask the permission of the Council to lay this petition—this telegram—upon the table of the House.

Petition ordered to be laid on the table.

## PORT TRUST ACT AMENDMENT BILL (BILL No. XIX OF 1922).

(Debate on first reading resumed.)

Mr. KANJI DWARKADAS: Mr. President, I rise to support the first reading of the bill, but I must at once say that this is a measure long overdue and therefore it is all the more to be regretted that it is a half-hearted measure. Government, we expected, would respond to public opinion and public criticism in this matter, but unfortunately they have proposed to walk at a very, very slow speed, and I hope that the Council will persuade Government or force them to go at a much faster pace. Government's principle enunciated in the statement of objects and reasons is entirely wrong. Government seem to believe that the only people concerned with the welfare of the Port Trust business are the European vested communities. I think they are wrong in this belief and in this opinion I claim the support of the opinion of His Excellency Lord Reay who, as long ago as 1886, said that the matters that are brought before the Port Trust are as much the interest of the whole community, of the whole city, of the whole municipality, as they are of the special interests represented on the Port Trust. My honourable friend from Bombay, Mr. Lalji, has very ably, and I may say very skilfully, shown that the Government's point of view is absolutely wrong. He has also, without adding the slightest bit to the racial bitterness that is now unfortunately prevailing in this country, very skilfully shown that the European interests of this city are not the only interests and not the primary interests that ought to be the concern of the Government and of the Council.....

The Honourable the PRESIDENT: I must interfere with this line of argument on the ground of relevancy. I have been reading the statement of objects and reasons and also the bill. Where have the Government said or the Honourable Member in charge of the bill said that the European interests are superior to those of Indian interests ?

Mr. KANJI DWARKADAS: I bow to your ruling and will accept your advice, Sir, but I may with great respect draw your attention to the third line of the statement of objects and reasons—explanation of clauses 2 and 3 :—

"Granted that the interests of the European commercial community in the shipping and other matters with which the duties of the Port Trust are chiefly connected are vey great, the Indian customers, who are served by the large shipping and export and import trade carried on by the European commercial community, are also vitally interested in the proper and efficient management of the port. The time has therefore now come when the Indian commercial community should be given increased representation."

The Honourable the PRESIDENT : All I can say is that the Honourable Member in charge of the bill has put it with his usual astuteness. He does not institute a comparison as the honourable member assumes. No argument can be allowed on the basis of mere assumption and conjecture.

Mr. KANJI DWARKADAS : Leaving it aside, I come to the second point which will make my first point clear. The Honourable Member in charge said that Government are now giving more representation to Indians. What is being given with one hand is being taken away with the other. We are told that we are given eight elected seats. My honourable friend has told us that, after all, the eight seats will not always go to Indians and therefore I think that, when this bill is referred to the select committee, the select committee will see that more elected seats are given to Indian representatives of this city belonging to different interests. I may be asked how I am going to do it ? The Government have again, I think, done a wrong thing in giving only two seats to the Bombay municipal corporation. We want, I am speaking not merely because I am a member of the Bombay corporation, not merely because the Bombay corporation have asked for it, but because their claim is absolutely fair and just—we want at least five seats for the Bombay municipal corporation—one of them may be the Municipal Commissioner. Here again I am bringing the point about the Municipal Commissioner. We want the Municipal Commissioner always to be a member of the Port Trust. The Government do not even promise that they will always nominate him on the Port Trust. We do not want nomination by Government of the Municipal Commissioner on the Port Trust. We want the Bombay municipal corporation to have the right to send five representatives to the Port Trust, one of whom, as I said, may, and I am sure will, be the Municipal Commissioner. If the select committee makes this amendment and the amended bill comes before the House, the House will accept it. I think the Legislative Council of this Presidency will then have responded properly to public opinion.

Mr. V. A. DAHBOLKAR : Mr. President, it is with very great pleasure that I rise to congratulate the Honourable Member in charge of this bill for bringing it before the House for the first reading. I am not going to adopt the attitude which was adopted by the honourable member from Thana as regards the Indian and European representation on the Port Trust as he put forward the ground that because the Port Trust employs 16,000 Indian labourers, that is the reason why Indians should have more representation, nor am I going to voice the interests of the landlords to suit one's convenience and put forward the plea that, because Indians have got more landed property on the Port Trust estate, they should have more representation. Sir, the only thing that I regret to find in this bill is the inadequate representation that has been given to the Bombay municipal corporation. I do not mind whether the corporation elects Indian or European members as their representatives on the Port Trust. This question of the representation of the corporation on the Port Trust was thought of so far back as 1879, but it is only for the last three or four years that we have been able to submit two names from the members of the corporation to Government for their approval. Sir, the corporation had a committee appointed to consider this question, and they have forwarded a representation to the Government on the 18th November. In that representation the corporation asks for the representation of three members of the corporation on the Port Trust, and the Municipal Commissioner as *ex-officio* member. Sir, I should like to take you so far back as the year 1886, when the then Governor

[Mr. V. A. Dabholkar]

Lord Reay made a speech at one of the meetings of the Legislative Council, and I may be permitted to read a short extract from that speech. Lord Reay said :—

"As the Honourable member for Sind is not present, perhaps it would be as well that I should express my opinion on this point. The Chamber of Commerce has three representatives, the Municipality only one, and I must say that, considering the importance of the harbour of Karachi to the Municipality, I cannot conceive that members of the Municipality would be less interested in harbour matters than the Chamber of Commerce ; I will not make any invidious distinction as to which of the two is the more interested. I should say the same thing of Bombay : the Municipality there is undoubtedly as much interested in the harbour as the Chamber of Commerce. It is obvious that members of the Municipal Council will, as a rule, be more permanent residents of the town than members of the Chamber of Commerce, who are likely to be only temporary residents."

As regards the last two lines in those days the European Community was very small but now it is nearly quadrupled. Referring to the representation of the municipal corporation, seeing that in the year 1886 Lord Reay expressed the opinion that the municipal corporation should be represented on the Port Trust in equal proportion to the Chamber of Commerce, we are now in the year 1922 and it is but right that the corporation should have the same franchise as the Bombay Chamber of Commerce. It was rightly said by the Honourable Member in charge of the bill that when there are two representatives from the corporation on the Port Trust they will watch the interests of the corporation, and as such there is no necessity to nominate the Commissioner on the Port Trust, but that Government may nominate him whenever it chooses. Sir, it is quite correct to say that the interests of the corporation should be watched by the two representatives of the corporation, but the Municipal Commissioner knows more of the inner working of the various municipal departments, and that knowledge will be very useful to the municipal representatives on the Port Trust, at the deliberations of their meetings. If the Honourable Member in charge of the bill has allotted to us two seats on the present corporation of 72 members, then I should like to point out that it is to be enlarged early in April next, when there will be 106 members and I do not think that the demand which the corporation has sent to the Government is an unfair one. At the same time, the Council must take into consideration the fact that the activities of the Port Trust on the eastern side are expanding very fast from South to North and as such the municipal interests can be better watched by the Municipal Commissioner if he is a member on the board of the Port Trust. Sir, I should like to tell the Council a fact which has attracted the attention of both the bodies, namely, the Port Trust and the corporation. Sir, the question of the proper drainage of the north of the island is being considered by the corporation for the last so many years ; at the same time, the Love Grove pumping station which is at Worli is intended to be removed on account of the development activities of the Improvement Trust on that side. The corporation sought expert opinion on the point, and the experts advised the removal of the drainage and sewage of the city to the northern side practically, which was approved by the corporation. But, Sir, what happened ? In the meantime, the Port Trust obtained the opinion of their experts, and their experts did not agree with the corporation. Where such thorny questions are concerned, the presence of the Municipal Commissioner on the board of the Port Trust will be very useful not only to the representatives of the corporation, but to the Port Trust itself. Furthermore, I should like to point out that though the corporation has got four representatives on the board of the Improvement Trust, Government have given us two more representatives to be elected by the

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corporation and to be approved by Government. So, in all we have six representatives of the corporation on the Improvement Trust, still the Municipal Commissioner is nominated by Government. There too what do we find? We as the representatives of the corporation do not fail to watch the interests of the corporation, but the presence of the Municipal Commissioner at the meetings of the board is of great assistance to us.

Furthermore, I should like to point out that this Council has not forgotten that the city of Bombay is declared to be full of insanitation ever since plague was imported in Bombay. That was so far back as 1896. This plague was introduced as a sea-borne disease, and as such the presence of the Municipal Commissioner on the board would be very useful from the point of view of sanitation, because he has at his disposal the services of the other executives of the municipality namely, the health officer, etc. Again, I would point out that we have recently had influenza imported into Bombay as a sea-borne disease. Therefore, if the municipality has not got the proper representation of the Municipal Commissioner at the deliberations of the Port Trust meetings, I think it would be rather a retrograde policy in the interest of the health of the city.

Again, looking at the question from the merchants' point of view, I think the corporation should have more representatives on the Port Trust. So far, I placed before the Council the rights of the corporation for representation on the Port Trust from the point of view of their civic duties. Now, I shall place before the Council its position from a merchant's point of view. In 1886 the municipality was not importing any large amount of machinery for its own purposes; but since the duplication of Tansa we have brought pipes and machinery to the extent of crores of rupees, and thus we have contributed a great deal to the coffers of the Port Trust. Then comes the triplication of Tansa for which we are also importing pipes and machinery. In connection with our drainage scheme which the corporation will undertake in the near future the corporation has to import pipes and machinery to the extent of crores, and we shall have to do so for nearly 10 years more till the works are complete, and for such purposes the corporation contributes to the Port Trust charges. Under these circumstances, is it fair that the corporation should have only two representatives on the Port Trust? I will take the opportunity at the second reading of the bill to move an amendment for more representation to the corporation on the Port Trust.

Sardar Khan Bahadur A. M. DALAL (Broach District): Mr. President, I beg to support the first reading of the bill. This bill is a very great step forward on the whole. I congratulate the honourable member (nominated) from Bombay on his excellent maiden speech. He has struck a right and dignified note and I hope and trust will prove as useful and distinguished as the one whom he has succeeded and who has been translated to higher duties and responsibilities. The question has been raised as regards the inadequacy of Indian representation with which I am in entire agreement. But, to be fair to Government I must say that Government looks to the actualities only and not as to how trade has diverted from one interest to another or how Indian interests in it have become smaller or greater and *vice versa*. I do not agree with the argument that both as producers and as consumers we have greater interests than Europeans. As consumers we must protect the interests of importers and as producers we must protect exporters. This kind of argument will not hold good. Our prosperity is interdependent with that

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of Japan, China and England. Therefore, our ideal and aim should be to think largely and have big ideas.

I dissent from the remarks made by the honourable member for Thana as regards the representation of the railways on the board. If anybody has greater interest at stake it is the railway to be represented on the Port Trust. As regards this, if there is any doubt in the minds of any honourable member, I would ask him respectfully to visit the docks and see what the railways have done for the acceleration of the transport of mails, goods and passengers, and for the vast improvement of the port. Therefore, the agents of the railways should be represented. As regards the nomination of the Municipal Commissioner by statute, I should say that as he is the executive head of one of the largest corporations in India, having an income of 3 crores of rupees and having large scope for development and improvement, he should be represented on the board of the Port Trust. As regards a larger representation of the corporation on the board, a good case has been made out by the previous speakers that this number should be increased.

One word more and I have done. We should have representatives of the Grain Merchants' Association on the board. Grain is the staple agricultural produce of India and those that are interested in agriculture and its trade should have adequate representation on the board of the Port Trust. With these words I support the first reading of the bill.

Rao Saheb D. P. DESAI (Kaira District): Mr. President, I congratulate the Honourable the General Member for having brought forward the bill and for recognising the necessity for Indian representation on the board through election. But at the same time I cannot agree with the Honourable Member in charge that it is a liberal advance on the present state of the Port Trust. Under the present Act there are 5 Indian members on the board and according to the new bill also there will be 5 members. Therefore, I see no advance upon the old Act in this direction.

Another thing I wish to bring to the notice of the Honourable the General Member is that the Bombay Port Trust has become very costly and that it indirectly touches the pockets of the mofussil, where, owing to high cost of moving goods in Bombay, people have to sell at a low price and purchase at a heavy cost. The Bombay Port Trust has got its quota of increased cost owing to a costly machinery. The Honourable the General Member also is very anxious that there should be a proper and efficient management of the Port Trust. How is that to be brought about? I think that can be done only by giving adequate representation to those persons who are interested in having lower port charges, and so the merchants, I mean importing merchants, should have an effective voice in its management. I look upon the Port Trust, Sir, as nothing but a municipality or a local board. It is a sort of self-government given to the commercial community by the Governor in Council. I think, therefore, that democratisation should take place with regard to the management of the port. While you could democratise the whole mofussil, you should not maintain autocratic management of the Port Trust in an advanced city. To bring about the democratisation of the Port Trust there is no better method than that suggested by the honourable member for Thana and Mr. Lalji Naranji. My honourable friend from Bombay made certain remarks which were not appreciated by the Council. What he suggested was that though the Indian merchants had long settled in African colonies they were

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not given any representation there and representation by nationalities was not recognised in other ports and so such representation should not be given in Bombay. That was what he meant.

With these words I would suggest to the Honourable Member in charge that he should give wider representation to the people who are actually affected by the imposition of port dues. I think also that the bond holders should have some representation on the Port Trust, because it is with their money that the port has been developed.

Mr. A. GREVILLE BULLOCKE: (Bombay Trades Association): May I, Sir, very briefly, at this stage, express my disapproval of the bill now before the Council, because it seems so strangely incomplete and inadequate? For instance, no representation is provided for my constituency—the Bombay Presidency Trades Association. Although that question has been before successive Governments, including the present one, for twenty years, vague statements have been made and vaguer promises, but Government like princes have apparently short memories, and here is the bill with nothing done, to redeem those promises. I had better explain that my constituents do not use the European import houses, but import their merchandise *direct*, so they are not in any degree represented by the Chamber of Commerce, in fact are totally unrepresented, but none the less are vitally interested in the administration of the affairs of the Bombay Port Trust. Evidently the Governments of Bengal and Madras are more alive to the interests of the retail trading communities, for in both these Presidencies their respective Trades' Associations have seats on the boards of the port trustees.

I trust Government, or the select committee before whom this bill must go, will remedy this omission failing which I shall be obliged to move an amendment at the second reading to secure this representation I ask for.

Mr. S. K. BOLE (Bombay City, North): Sir, I rise to congratulate Government for bringing up this bill. Up to now the number of port trustees was seventeen, out of which seven were elected, nine nominated and one chairman.

The Honourable the PRESIDENT: I cannot allow the same argument to be repeated. Since last night I see that certain arguments have been repeated by successive speakers. But now there is a limit to it and I will allow only fresh arguments to be advanced until a closure is moved.

Mr. S. K. BOLE: Sir, for the sake of illustrating I was going to repeat the same argument, but I shall not repeat it. The Indian Chamber of Commerce have been given the right to elect five members only because, I think, the European Chamber of Commerce enjoys the same privilege. I think that should not be done. I hope that the select committee will see its way to reduce the seats given to the European Chamber of Commerce. Reduce their number to three and then you will equally be entitled to reduce the number of the seats you propose to give to the Indian Chamber. If this is done, there will be no necessity of unncessarily increasing the present number of trustees.

With these words, I congratulate the Government for giving representation to the Indian commercial community. At the same time, I wish to express my regret that they have altogether forgotten Indian labour, and I think it would be as well if provision is made in the bill to introduce one member representing their interests. In the same way I think the request of the corporation that

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the Municipal Commissioner should be nominated should be agreed to, and I think there should be a specific provision in the bill for the appointment of the Municipal Commissioner.

Then as regards clause 5, sub-clause 2, the proviso runs :

"Provided that the chairman may upon such terms as he shall think fit and subject to the aforesaid..."

The Honourable the PRESIDENT: Order, order. We cannot discuss any particular clauses of the bill now. We are only concerned with the principle of the bill and its general provisions. There will be time enough to discuss particular clauses if and when we reach second reading.

Mr. S. K. BOLE: I shall then offer only general remarks. It has been suggested that the power of appointing, fining, and suspending officers getting salaries up to Rs. 300 should be delegated to the heads of departments. If that is done, I am afraid there is some possibility of injustice being done to these subordinate officers. I therefore think that it should be left to the chairman as before. I submit, therefore, that the select committee should see its way to amend this bill in that respect.

Mr. F. NELSON (Bombay Chamber of Commerce): Sir, I rise to support the first reading of this very admirable bill. I may say at once that owing to the deplorable acoustic conditions of this hall I have only been able to gather fragments of the speech of my honourable friend representing the Bombay Trades' Association, but may I say that I fully sympathise with his aspirations that his Association should be represented on the board of trustees, and possibly that is a matter which may engage the attention of the select committee ?

I cannot conceive that there is any real or material support behind the somewhat ungracious opposition evinced towards the bill by my honourable friend from Thana : this bill in my estimate represents an honest and well-meaning attempt on the part of Government to grant a deservedly increased Indian representation on the board of trustees of the port of Bombay. So far as the constituency which I have the honour to represent is concerned, I may say that we have amongst our members a considerable number of Indian firms of honoured repute, and there is no reason in the world why a representative of any of these firms should not stand for election as one of the five representatives that my constituency sends to the board of trustees, and, Sir, I go further and say that if any candidate could show an equal knowledge of shipping matters such as is evinced by our present representatives all of whom have practically spent their lives in shipping, he would undoubetdly be elected. I think the time of the House is very precious, and therefore I do not want to go into details on this point. With these remarks I strongly support the first reading of this bill.

Mr. P. R. CADELL: Sir, I rise to support this bill. I must, however, begin by expressing, on behalf of the trustees, their regret that Government should not have found it possible to consult the Bombay Port Trust before the introduction of this bill. Last year, a representation was made by a certain body for increased representation on the Port Trust, and that representation was sent to the Bombay Port Trust for their opinion. They gave their opinion and made the definite and unanimous recommendation that, whatever the constitution of the Port Trust might be, the number of port trustees should not be increased as it was already too great for efficient working. We received no reply from Government to that representation of the Port Trust. In fact we

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heard no more till we saw the bill published in the morning newspapers. We then wrote and asked for copies of the bill, and an opportunity of stating our views. Copies of the bill were sent, but the trustees' request for an opportunity to state their views was ignored. The trustees once again asked for an opportunity to make their suggestions before the bill was introduced. They finally received a letter, dated the 27th November, saying that Government would be glad to receive the suggestions of the port trustees. Sir, if Government attached the least value to the suggestions of the port trustees, they obviously would have asked for them before the bill was introduced and not after the introduction. If Government had treated the matter as an urgent one, there might have been some reason, though little excuse, for such treatment of the board. But it took thirteen months between the answer of the Port Trust to the letter of Government and the introduction of the bill. There was ample time between the delays that took place in the Honourable Member's department for the opinion of the port trustees on the bill to be taken.

As I support the first reading, I do not think I need take up any time at this stage in going into details as to the constitution of the board. We have heard a good deal about Indian and European representation and we have also heard an honourable member saying that the board ought to be democratised as the local boards and municipalities. But we have heard nothing about efficiency and, useless though, the chief object in making any change in the existing constitution should be that there should be no diminution of existing efficiency. And I would like to remind honourable members of this House that efficiency is more essential in the Bombay Port Trust than in any other local body, because competition is extremely severe. We have to meet competition of other ports in India and abroad and we have to remember that our rates and charges are in some respects higher than the rates of other ports. We have got great developments before us. We have obligations which we are bound to undertake and fulfil, and it is necessary that the work of the Port Trust should be conducted with the greatest eifficiency not only by the board itself but by the most efficient staff that can be collected. For all these matters, at the time of changing the constitution care must be taken that that change is not accompanied by any loss of efficiency.

I have said that I do not want at present to go into details of constitution. But I want to refer to one point because it has been referred to by other honourable members, and that is the representation of the Bombay municipality on the Port Trust. I cannot, I think, be accused of lacking in either knowledge of or sympathy towards the municipality. I was myself in the service of the municipality for several years. There are at present two members of the Bombay municipality nominated by Government on the board and we are glad of their presence. But when the municipal representatives talk of their representation being increased, I think we must inquire what reason there is for that change. We have heard a good deal about taxation without representation as being improper. But in this case there is no question of taxation. The municipality pays nothing whatever towards the revenues of the Port Trust. In fact it is quite the other way about. The Port Trust pay very largely towards the municipal revenues. But I have never heard it suggested that there should be representation of the Port Trust on the municipality. There is no logical substance in the request for increased representation of the municipality. We have heard it said that the municipality should be more largely represented on the Port Trust because at home the municipalities have greater representation

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upon similar port authorities. It is true that that is the case in some ports at home, but there are two great differences which I should like to point out, and I speak from the result of enquiry made when visiting ports at home. The differences are these. Local bodies at home place much more confidence in their executive officers than, rightly or wrongly, bodies out here are prepared to do. The Bombay Port Trust has always been a fully administrative body. And the other difference is this, that the local bodies at home have very large financial responsibilities for the docks and for the ports. Very often the issue of the port stock is made in the name of the local body. The Bombay municipality has no such responsibility; it is not in the least responsible for an anna of the Port Trust debt.

The only other point about the constitution of the Port Trust that I will touch upon is the question of the Municipal Commissioner. If I understand aright what I have heard of the honourable mover's speech last night, he does not care very much whether the Municipal Commissioner is nominated or not as a trustee. He suggested that Government might not nominate him in future because the municipal representation would be sufficient without him. I venture to think that it would be a great mistake on the part of Government to fail to nominate the Municipal Commissioner. He is one of the most valuable members of the Port Trust. I have been Municipal Commissioner myself and I have seen the work both in the capacity of Municipal Commissioner as also as Chairman of the Port Trust. There are two great sets of machinery working side by side, belonging to the Port Trust and the municipality, and on the Port Trust board the Municipal Commissioner is the connecting link. There are numerous mutual obligations between the Port Trust and the municipality. There are questions of road making and sanitation, and very large sums of money are involved. The fact that all these years there has been no serious friction between the Port Trust and the municipality is, I believe, very largely due to the presence of the Municipal Commissioner on the Port Trust board.

Sir, I do not want to trouble the Council with more details and with these remarks I beg to support the bill.

An HONOURABLE MEMBER: I move the closure.

The Honourable the PRESIDENT: I think there are only two questions of principle, one of representation and the other of the powers given to the chairman. I do not see that any fresh argument can be advanced, and I think the House has had enough of discussion. It will always be open to discuss the clauses further at the second reading. Therefore, I accept the closure.

The Honourable Sir CHIMANLAL SETALVAD: Mr. President, I think we have had an informing debate on this motion for the first reading of this bill. Before I deal with the various points made by several members, I would deal first with the preliminary objection of the Chairman of the Port Trust about the procedure of Government in introducing this bill. I think he said that the Port Trust had not been consulted by Government regarding the provisions of this bill. There, Mr. President, he is entirely wrong. As he himself admitted there was correspondence between Government and the Port Trust about the increase of the Indian representation that was asked for by the Indian Merchants' Chamber and Bureau, and that really is the main point in the bill. The Port Trust after considerable deliberation submitted to Government fully their views about the future constitution of the Port Trust. The Government fully

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considered the scheme put up by the Port Trust and then came to their decision as embodied in this bill. Where then, I ask, Sir, was the necessity for Government to produce to the Port Trust the actual provisions of the bill and say "What do you think of them?" They had full opportunity to express their views. I see the Chairman of the Port Trust shaking his head, but my facts are quite correct. Moreover, the bill which is now before the Council was published last September. We are now in December. The Port Trust have not thought fit to make any representation either to this Council or to Government on the provisions of this bill.

Mr. P. R. CADELL: May I rise to a personal explanation, Sir?

The Honourable the PRESIDENT: Would the Honourable the General Member allow the chairman of the Port Trust to make an explanation?

The Honourable Sir CHIMANLAL SETALVAD: Yes.

Mr. P. R. CADELL: The point is not of the first importance, but the facts ought to be before the House. I repeat that when we saw the bill published in the papers, we wrote and asked Government for copies of the bill and also for an opportunity to state our views. We then, and only then, got copies of the bill, but our further request was ignored. The matter was discussed by the trustees and we again wrote to Government and asked that the Port Trust should be given an opportunity to express their views. We got a reply dated the 27th November, and received on the 29th. There was no time to hold any meeting of the trustees before the bill was brought into Council for discussion.

The Honourable Sir CHIMANLAL SETALVAD: I am glad of the interruption of the Chairman of the Port Trust. That further confirms what I was saying about the Port Trust. They saw the bill published in the Government Gazette and in September, and what was it that they did, according to the Chairman? They wrote to Government asking for an opportunity to express their views. Who on earth prevented them from expressing their views to this Council or to Government? Why need they have written to Government "Give us an opportunity to express our views"? Who prevented them from expressing their views? They write to Government and then they wait for an answer. They get an answer that Government was quite willing to consider their suggestions. I do not know why they should have done all this. Any person—any member of the public—was at liberty to submit his view to this Council or to Government and the Port Trust could have done that between September and now. They sleep over the matter from September till now and now complain through their chairman and say that Government did not give them proper opportunities. They had ample opportunities. If they chose to sleep over the matter from September till now, nobody is to blame but themselves.

Mr. President, I do regret that some members have introduced racial questions and racial controversies. It is always best for everybody concerned if we can keep out racial controversies which, if introduced, are likely to lead the discussion into undesirable channels. Let us deal with the bill on its own merits. The nominated member opposite referred to this passage in the statement of objects and reasons:

> "Granted that the interests of the European commercial community in the shipping and other matters with which the duties of the Port Trust are chiefly connected are very great, the Indian customers, who are served by the large shipping and export and import trade carried on by the European commercial community, are also vitally interested in the proper and efficient management of the port. The time has therefore now come when the Indian commercial community should be given increased representation."

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The honourable member then complained that the interests of the European commercial community in the shipping and other matters are great, because Indian enterprise had been discouraged and had been kept back, and he referred to certain proceedings and certain speeches that were made at a meeting of the Scindia Steam Navigation Company.

But a little reflection will show that that is absolutely irrelevant. Nobody is more keen, Mr. President, than myself to see that Indian enterprise both in shipping and in other matters should receive proper encouragement and help, but it is quite a different question—a very large question by itself—which has its proper place and time for examination. We have in dealing with the constitution of the Port Trust to take the facts as they exist. This is not the time for complaining why they so exist. It cannot be denied that the European shipping and commercial interests in the Port of Bombay are great. It is no use for the present purpose to complain that those interests have been built up at the expense of other interests. The European interests are admittedly great and those interests must have adequate representation. The time has come when Indian interests also which are growing should also have adequate representation. It is perfectly legitimate in its proper place to plead for encouragement of Indian shipping enterprise, but this is not the time nor the place to take up that question. All that we are concerned with at this moment is existing facts with regard to the port of Bombay and we have to see that all the interests concerned have a proportionate representation on the board of the Port Trust. The racial consideration brought in by the nominated member opposite and supported further by the honourable member for Thana is absolutely irrelevant to the matter which the Council is now asked to consider.

It has been asserted that Indian interests have been subordinated to European interests. On the contrary the statement of objects and reasons shows the contrary. It says in effect that the Indian commercial interests are equally important with European commercial interests and that therefore the time has come to give proper representation to Indian interests. Surely it is perverting the language, Sir, I submit, of the statement of objects and reasons to charge Government with trying to subordinate Indian interests to European interests. Nothing was further from the mind of Government, and I can assure the Council that when Government drew up this bill they took into consideration all interests concerned in the proper management of the Bombay Port Trust.

Now, let me deal for a minute with the advocates of larger municipal representation. They said they must have the Municipal Commissioner on the Bombay Port Trust. I must confess, Mr. President, I was rather amused at the argument advanced by the newly nominated member, who is a leading light of the Bombay municipal corporation. He said that the Municipal Commissioner is indispensable on the Port Trust, and why? He said "Look here, epidemics like plague and influenza have entered the city by sea communication and it would be very desirable to have the Municipal Commissioner with his knowledge of the health of the city on the Port Trust." He all the time forgot that at the time plague was introduced into Bombay and influenza broke out in Bombay, the Municipal Commissioner was there sitting as a member of the Port Trust and yet he was not able to prevent the entry of those epidemics into the city. I do not see how the presence of the Municipal Commissioner in future on the Port Trust will prevent epidemics of that character entering Bombay. As I said, Sir, in introducing the motion for the

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first reading, the Municipal Commissioner no doubt is an experienced officer and would be of very valuable assistance to the Port Trust, and Government in making their nominations would certainly not be unmindful of that consideration, but I on behalf of Government entirely repudiate the suggestion that the Municipal Commissioner is an indispensable person on the Port Trust. It is necessary, I admit, that in making nominations Government should consider the advisability and desirability of placing the Municipal Commissioner on the Port Trust, but I am not prepared to have it laid down by statute that he must be one of the members of the Port Trust. Also, Sir, the Bombay municipality will have direct representation given to it by election. I remember in the old days when the Bombay municipality had no direct representation on the board of the Port Trust at all, it being represented in an indirect manner by the Municipal Commissioner, that it was represented to Government that the presence of the Municipal Commissioner was not essential on the Port Trust. They said that the elected representatives of the corporation should be there, that the corporation should be directly represented, and not in an indirect manner through the Municipal Commissioner. They seem now to have discovered that their elected representatives are not good enough or are not sufficient to protect the commercial interests of the city and they now want, by law, the Municipal Commissioner also to be on the Port Trust. They seem to feel that their elected representatives are not competent, unless they are allowed to rely on the strong support of the Municipal Commissioner to guard their commercial interests on the Port Trust. I repeat, Sir, that though Government are quite willing to bear in mind the desirability of nominating the Municipal Commissioner on the Port Trust, Government are not prepared to have their hands tied by legislation with regard to nominations in the manner suggested.

The honourable member representing labour in Bombay pleaded that labour should have a representative on the Port Trust. I admit labour is important, but surely the members of the Bombay municipal corporation, under the new franchise of Rs. 10, would be elected by an electorate with a large labour element. They will not be unmindful of the interests of labour. If you are going to demand a representative for each and every interest like that, I do not know where you are to stop. To have a representative for labour and so on, would only tend to indefinitely enlarge the constitution of the Port Trust.

Then, Sir, the honourable member representing the Trades' Association pleaded that they should have a representative. There again, the principle of the bill is this. You have a recognised body like the Indian Merchants' Chamber and Bureau for the commercial interests of Indians, you have the Bombay Chamber of Commerce representing the European merchants, and any person who wants to go on the board of the Port Trust must get into either chamber and seek election to the Port Trust. If we are to give separate representation to the Bombay Presidency Trades Association, why not to the Piecegoods Association, why not to the Grain Merchants' Association and half a dozen other important associations that you can name in this city ?

Therefore, as I have said, the proper principle is to give representation to recognised bodies through which all the commercial interests must seek representation. Then, further, we have provided for the representation of the millowners.

Complaints have been made that the representation given to Indian interests is not adequate. There again, Sir, that contention fails to recognise

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the actual facts. However, I claim that this bill is a considerable advance on the present restricted Indian representation. At present you have only two elected representatives of such bodies as Government may appoint from time to time as representing the Indian commercial community. Three Indians are further nominated. Under the scheme of this bill, you will get eight, all elected, as against the present two elected and three nominated—five in all. Further, among the seven to be nominated by Government under the bill there may be Indians. That is all I have to say on the real, important parts of the bill. The other matters all refer to administrative details. It is found desirable to delegate certain powers to heads of departments. I trust therefore that the Council will pass the first reading of the bill.

Bill read a first time. Question put and agreed to.

The Honourable the PRESIDENT: The bill has passed the first reading.

The Honourable Sir CHIMANLAL SETALVAD: Mr. President, I move

"That a select committee, consisting of eleven members, be appointed to consider and report upon Bill No. XIX of 1922 (A Bill further to amend the Bombay Port Trust Act, 1879), and that they make their report within six weeks from this date."

Question put and agreed to.

The Honourable Sir CHIMANLAL SETALVAD: Sir, I will now move that the select committee do consist of the following members:—

Mr. Lalji Naranji, Mr. P. R. Cadell, Sir Lawless Hepper, Mr. Kanji Dwarkadas, Mr. M. A. Havelivala, Mr. F. Nelson, Sardar Khan Bahadur A. M. Dalal, Mr. V. A. Dadholkar, Mr. Ibrahim S. Haji, Mr. B. V. Jadhav, and the honourable mover.

Question accordingly proposed.

Mr. DIPCHAND T. OJHA: I suggest that Mr. G. H. Kassim might be included in the select committee.

The Honourable the PRESIDENT: Does the honourable member move an amendment accordingly?

Mr. Dipchann T. Ojha made some remarks which were inaudible.

The Honourable the PRESIDENT: If so, then the honourable member should point out in whose place he is going to place his member.

Mr. DIPCHAND T. OJHA: It will be rather hard upon me (at this point the honourable member was inaudible).

The Honourable the PRESIDENT: I understand the honourable member does not move any amendment.

Bill referred to Select Committee. Question put and agreed to.

## A BILL FURTHER TO AMEND THE OPIUM ACT, 1878
### Bill No. XXII of 1922.

The Honourable Mr. C. V. MEHTA: Mr President, I beg to move that

First reading. Bill No. XXII of 1922 (A Bill further to amend th Opium Act, 1878), which has been published and placed before the House, be now read a first time. As the statement of objects and reasons explains, this is a bill to empower the excise officers not below the rank of inspector, and customs officers not below the rank of preventive officer, to conduct preliminary investigations in cases of opium offences. The officers under the Abkari Act have got similar powers of investigation, and it is an anomaly that officers under the Opium Act should not have equal powers. Up to 1920 these officers used to conduct investigation of opium cases on

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exactly the same lines as the officers of the Abkari Department. In that year the magistrates disallowed that practice, and under section 20 of the Act the objection of the magistrates was upheld. Before the reforms this Government wrote to the Government of India pointing out the difficulties and requesting them to undertake legislation. The subject is partly provincial and partly central, and the sanction of the Government of India that the legislation for amending the Act for this purpose be undertaken by the local Government has been obtained. That is the reason why the bill is before the House. I must explain that it is anomalous that the same officer who may be doing both opium and excise work should have power under one Act to conduct investigation, and should have no power under the Opium Act, as the section now stands, and that he should be compelled to hand over the investigation to the nearest police officer. This is impracticable, and further, the police officers are too busily engaged in their work to look to the investigation of opium cases. It has been pointed out by the Commissioner of Customs that in the interest of efficiency the officers should be placed on an equal footing under both the Acts, and that the practice prevailing up to 1920 should be legalized.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, I beg to support the first reading of the bill. The Honourable Member in charge of the bill has explained the reasons why this bill has been brought forward, and there is nothing for me to add to it. On behalf of the public I support the first reading, because the public under the existing Act have to undergo two ordeals, first the police and then the excise. Under this bill there will be one ordeal only, and this will further expedite disposal of cases.

Mr. LALBHAI AMBARAM (Surat District): Sir, I support the bill on various grounds. It has come to my notice that the opium officers have to undergo great inconvenience in regard to their investigation in out-of-the-way places. Further, it was also brought to my notice that police officers do not take as much care as the opium officers in the matter of investigation. Therefore, I am strongly of opinion that this bill is necessary both from the point of view of Government and the public.

Bill read a first time. Question put and agreed to.

Second reading. The Honourable Mr. C. V. MEHTA: Sir, as there is no criticism directed against the bill, I request you to suspend the Standing Orders and allow me to move that the bill be now read a second time.

The Honourable the PRESIDENT: I suspend the Standing Orders.

Bill read a second time. Question put and agreed to.

*Bill read clause by clause.*

Clause 2 (*Interpretation clause*) ordered to stand part of the bill.

Clause 3 (*New sections 20 to 20C*) ordered to stand part of the bill.

Clause 1 (*Short title*) ordered to stand part of the bill.

Preamble ordered to stand part of the bill.

Third reading. The Honourable Mr. C. V. MEHTA: Sir, I move that the bill be now read a third time.

Bill read a third time. Question put and agreed to.

The Honourable the PRESIDENT: Bill No. XXII of 1922 is now read a third time and I declare it duly passed.

## A BILL TO IMPOSE A DUTY IN RESPECT OF ADMISSION TO ENTERTAINMENTS IN THE PRESIDENCY OF BOMBAY (Bill No. XX of 1922).

(As amended by the select committee).

Second reading.

The Honourable Mr. H. S. LAWRENCE: Sir, I beg to present to the House the report of the select committee on Bill No. XX of 1922 and to move that the said bill (a Bill to impose a duty in respect of admission to entertainments in the Presidency of Bombay) be now read a second time. Amendments have been made by the select committee affecting certain administrative details and also changing some of the duties proposed. The report of the select committee has been considered by Government and it is my duty to propose three amendments to the bill as passed by the select committee. The reasons for these amendments I shall set forth in detail when we come to the clauses concerned.

Rao Bahadur R. R. KALE (Satara District): Sir, when this bill was moved for the first reading the question of taxing admission to race-courses was brought forward. Now admission to race-courses is of two different kinds. Some persons seek admission to the race-course as spectators but others go to the race-course in order to participate in the bets. The latter also forms part of the amusement. The select committee has only considered the question of taxing the admissions. My submission to the Council is that the present bill ought to make some provision for taxing the receipts of the bets. Now, it might be said that there is the Bombay Race-courses Licensing Act and that under that Act Government possesses certain powers. I have read the Bombay Race-courses Licensing Act, and I do not find that there is any provision in that Act to levy the tax that is proposed. I submit, moreover, that instead of leaving the matter of proposing any taxation to the executive Government, it is desirable and necessary that this Council should enact a provision by which such proceeds may be taxed. Income from such taxes, I submit, is enormous. And now that we are going to tax innocent amusements like cinemas, it seems to me but equitable, just and proper that we should not let go these very important sources of taxation. I submit, therefore, that the bill is not wide enough. I have given notice of certain amendments to incorporate this provision, but it seems to me desirable that this matter should be dealt with satisfactorily in the select committee, and since it has not been dealt with already, I submit that the matter is so important that it should be fully and properly discussed before the bill can be amended at the second reading. Therefore, under Standing Order VIII, 8, (2), (*b*), (*iii*), of the Standing Orders, I move:

"That the bill as reported by the select committee be re-committed to the select committee, with instructions to the select committee to tax the payments made into a totalizator or to a book-maker, if any, licensed under the Bombay Race-courses Licensing Act, 1912."

The Honourable Mr. H. S. LAWRENCE: Sir, I rise to a point of order. This proposed amendment to recommit the bill to the select committee is totally at variance with the principle of the bill as accepted by this House at the first reading. That bill was solely for the levy of duty in respect of admissions to theatres, cinemas and other places of amusement in the Presidency of Bombay. It was only for 'admissions' to these places. Now a proposal is made to tax the payment made into the totalizator after a man has been admitted to the place of amusement, and it is out of order.

Rao Bahadur R. R. KALE: What I wish to point out is that in the statement of objects and reasons a note was given which said that it is for considera-

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tion whether the duty should not also be charged on payments for admission to a race meeting. Now, Sir, the word admission appears there. My point is that admission is on a pass. That includes admission to a race meeting by a pass. What happens is that some people want admission merely to remain present as audience and others want admission for something else, and that is partaking in the amusement. Now there is uniform duty on that admission. My proposal is that there should be some additional duty on the particular people who want to take advantage of the amusement itself by enjoying it. My point is that the definition of admission is merely inclusive of admission to entertainment.

The Honourable the PRESIDENT: I am not an expert in racing. I do not know what all these terms exactly mean. Will you kindly explain to me how it comes within the term "admission for entertainment"?

Rao Bahadur R. R. KALE: If a person wants to attend a race meeting, he has got to be admitted into it for two purposes. Some people want admission merely as on-lookers, while others want admission for the purpose of participating in the races, that is, for betting. Of course, my proposal is that such persons who want to participate in the betting should be taxed also.

The Honourable the PRESIDENT: Is there a distinction made between those admitted for entertainments and those admitted for the purpose of betting?

Rao Bahadur R. R. KALE: Those people who have been admitted may choose afterwards to bet and amuse themselves in the form of betting.

The Honourable the PRESIDENT: So, according to the bill there is no distinction between the two.

Rao Bahadur R. R. KALE: Those who go in for betting as well as those who go in for seeing are taxed by the bill as it stands. My point is that some people should be taxed additionally, that is, on the money which they pay by way of bets. I mean that these people who pay by way of bets should also be taxed. I submit that betting is a form of amusement. Some people like to indulge in the form of amusement as on-lookers and others take part in betting. My submission is, therefore, that if this matter had been broached at the first reading of the bill.....

The Honourable the PRESIDENT: It was broached.

Rao Bahadur R. R. KALE: It would have been considered as a matter of detail.

The Honourable the PRESIDENT: I now see the whole point. It is now quite clear to me that it does not come within the principle of the bill as affirmed at the first reading; because all persons who go to the race-course go there either for betting or for entertainment, and having to pay for admission they come within the principle of the bill so far as admission is concerned. You cannot tax them any more and make a distinction between those who go there for gambling and those who do not gamble, but go for mere entertainment, having regard to the principle affirmed at the first reading. I, therefore, declare this motion for the recommittal of the bill to the select committee out of order.

Mr. G. B. TRIVEDI (Thana District): Sir, I support the second reading of this bill so far as it taxes the admission to the race-course, but I am opposed

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to the taxing of those entertainments that cannot bear the taxation, and on that principle I would urge this House that at the second reading, when we go into details we should take into consideration the slender position of those entertainments that are to be taxed by this bill. No doubt we want money and we would support any taxation that would bring us money in a fair and equitable way. I know also that "necessity has no law" and however unwilling we might be to tax, we have to tax. But then there is also another saying that in taxing you must also see that you do not strangle the persons or bodies or the trade that you are going to tax. Now we have before us the example of the countries and provinces in which a tax has been levied on entertainments, such as the theatres and the cinemas. Now I leave the theatres to themselves, although I believe they are also not in a proper condition. But, although I do not plead for the cinema owners, I do feel as one interested in the development of industry that the cinema industry, being a new one in this country, will suffer very heavily if this tax is levied on them. If it cannot be avoided, let it be levied in the case of tickets of twelve annas and up. If we cannot exclude the poor and the middle classes who will get admission by paying up to twelve annas, then it will really be a burden, and it will kill the cinema industry. I will give the example and cite the experience that has been gained in other provinces. Now we have before us the example of Bengal. In Bengal this very tax has been levied on theatres and cinemas. It was calculated by the Government of that province that it would realise Rs. 30,00,000 in a year. In seven months they have got only Rs. 1,00,000 and while the Government did not gain anything, the industry has suffered to such an extent that the prospering cinema houses are now in a bad state. I have been to Calcutta. I have seen in Calcutta that there are more cinemas there than in Bombay and there are more people there who are fond of visiting cinemas than here. They have got more European population in Calcutta than in Bombay and there are more theatres there than in Bombay. And still, with all these things, what is the state? Instead of Rs. 30,00,000 which Government were expecting they realised only Rs. 1,00,000 so far, and perhaps at the end of the year they will realise say Rs. 2,00,000. Should we not, then, with this experience before us, think twice before taxing an industry which will be killed practically if we in our dire necessity of finding money tax this industry?

*After Recess.*

The Honourable the PRESIDENT: Order order.

Mr. G. B. TRIVEDI: Then, Sir, my second point is that the select committee does make an admission on this point and so my arguments are further strengthened. It says:

> "We have come to the conclusion that so far as regards the less expensive forms of entertainment at the present moment the industry principally concerned, the cinema industry is, in common with other industries, not in a very flourishing condition."

So, Sir, the select committee has made this admission and after this admission, are we not entitled to ask the Honourable Member in charge to consider whether he will not agree to exempt cinemas either wholly or at least up to twelve annas from taxation, because, as I say, it will not bring us what we want and what we have estimated, and it will ruin the industry unnecessarily?

There is a third point and it is this, that the cinema is not only an industry, but it is a new industry. Now there is a film-making industry in this country, swadeshi film-making industry. It is a new industry and it ought to be

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encouraged. There is a tax of 20 per cent. on films imported. It is a very good thing as an encouragement to film-making in India itself. But, then, if the customers for these film-making companies are not in a prosperous condition, how will they buy the films ? So if we want to encourage this young industry, we ought to see that the cinemas do not unnecessarily suffer. I am not against taxation. What I mean is that our taxation ought to be run on the lines that we do not unnecessarily strangle a rising industry.

Then, Sir, in our desire to get more money, what have we done ? The select committee has not seen the reasons why complimentary tickets should not be exempted. I am not going into details, but what I feel is that if a cinema owner brings his wife or his friends to the show, he has to pay even for his wife and friends. Is that just ? Then, it is a trade. Every trader knows that he has to depend upon advertisement to a great extent and it is a sort of advertisement if he sends certain complimentary tickets to the representatives of the press, because if the representatives of the press go and see the show, they will advertise it ; they will write in their columns about the show and thus advertise it. That will bring money to the cinema house. But then you are taxing them on complimentary tickets, so that, the proprietor for advertising his show will have to send not only a complimentary ticket, but will have to pay in addition to Government. So it is bad in principle to tax complimentary tickets. Of course, there may be abuse as regards complimentary tickets, but there ought to have been certain limits ; there ought to have been a certain percentage laid down that the owner of a cinema should be allowed a certain latitude in regard to complimentary tickets. I understand from enquiries made that complimentary tickets are not taxed in England and other countries. Should we not follow the same practice here ? Therefore, I am opposed to taxing an industry and a trade of this kind.

Mr. A. N. SURVE (Bombay City, North) : Mr. President, Standing Order, VIII, 7, (2) states :

"The select committee shall state in their report in what languages the report, minutes of dissent and the bill, if amended, shall be published."

The report of the select committee in its paragraph 4 only states :

"Our report with the bill as amended should be published in the *Bombay Government Gazette* and in the *Sind Official Gazette*."

I beg to point out that the select committee have omitted to mention the languages in which this report should have been translated and published in the *Government Gazette*.

The Honourable the PRESIDENT : How do you say that the provision of that Standing Order has not been complied with ?

Mr. A. N. SURVE : The languages have not been stated—Marathi, Gujarathi, Kanarese and so on should have been specified.

The Honourable the PRESIDENT : There is nothing in that point. The Standing Order says that the select committee shall state in their report in what languages it should be published. It is published in the English language, so that the select committee within its discretionary power thinks that publication in the English language is sufficient compliance with the requirements of the Standing Orders.

Mr. A. N. SURVE : As I was saying, this bill affects illiterate people who do not know the English language. Therefore, it is necessary that the select

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committee should have directed that it be published in the different languages which are current in this Presidency, namely, Marathi, Kanarese, Sindhi, Gujarati, Urdu and so on. That provision has not been complied with, and therefore I beg to propose that this bill be referred back to the select committee with the direction.....

The Honourable the PRESIDENT: That the honourable member cannot do. I have thought the matter over. The bill cannot be referred back to the select committee with the instruction that it should be published in any particular languages, because under Standing Order VIII, 7, (4), the select committee is empowered to publish in such languages as it thinks fit. So this Council cannot impose upon it an obligation to publish it in any particular language or languages. I am afraid if the House wants that, then the Standing Orders may have to be amended in that respect.

Mr. A. N. SURVE: Mr. President, the cinema industry in this country is in its infancy. It is admittedly indigenous and deserves support. Therefore, it is necessary that the lowest classes must be exempted from this tax, because, if this tax is imposed, it would be a hardship to the labouring and lower middle classes. Who are the patrons of this form of amusement and on whose patronage is this industry mainly supported? I am not quite pleased with the recommendation of the select committee. This clause as amended is certainly an improvement over the original clause, but that improvement falls short of the demands of the public, and I hope this point will be well considered when the bill is considered clause by clause. There is one good improvement made by the select committee, and that is about the exclusion of the criminal liability. That was really a trap to the unwary. I thank the select committee for having made that improvement.

My third point is that complimentary tickets should not be subject to taxation. The newspapers get these tickets, and it must be remembered that the newspapers are public critics. They create and foster literary and artistic taste among the public. Unless they are permitted to go to the cinemas and other theatres and see for themselves the various shows, how are the editors going to discuss the merits or demerits of the plays? Therefore, it is not merely for purposes of advertisement that the complimentary tickets are issued; in the interest of the public it is necessary that the representatives of newspapers and artists should be exempted from this tax.

Then, I am very much constrained to observe that the proceeds of this tax are not earmarked for education, but will go to the general exchequer. Sir, as a member representing the Maratha and the allied castes, it is my duty to say that the receipts of this tax should be earmarked for the purpose of furthering primary education.

Then, another point is this. The bill was originally published; then it was again republished on the 6th of November as corrected by the Government. What I want to know is whether the select committee considered the bill which was committed to it by this House or the.....

The Honourable the PRESIDENT: Order, order. The select committee could not take into consideration any other bill than the one that was placed before the Council at the first reading. It is no use asking what bill the select committee considered.

Mr. A. N. SURVE: I have nothing further to add. With these remarks I resume my seat.

Mr. C. M. GANDHI (Surat City): Mr. President, at this stage of the second reading of this bill, I am rather in a difficult position. I was a member of the select committee on this bill, and as such I was induced to agree to the principles of the bill as amended on two considerations. One was that members of Government were quite prepared to exempt classes lower than six annas, and secondly that members of Government were prepared to tax admission to race-courses up to 50 per cent. But now I find that the Honourable Member in charge of this bill proposes an amendment reducing the tax on admission to race-courses to 25 per cent., and also proposes to include the four anna class.....

The Honourable the PRESIDENT: The honourable member cannot anticipate amendments. They will be moved when the bill is read for the second time. That stage has yet to come. We are now dealing with the motion for second reading as amended by the select committee.

Mr. C. M. GANDHI: I am only pointing out to the House my position. If Members of Government try to do something which is contrary to the principles which I accepted when the select committee went into its labours, I will not be prepared to support the bill, and it shall be my duty to oppose its second reading and vote against it. I therefore want to make my position clear to the House, that I accepted and signed the report of the select committee on a very, very clear understanding, namely that members of the Government would be prepared to exempt the lower classes of tickets, on the ground that if those classes were taxed, the industry would considerably suffer, and secondly that Government was prepared to tax admission to race-courses on a higher scale, so that a greater amount of money would be available to the exchequer.

The third point is the implied understanding in all sections of this House that the proceeds of this tax would be utilised wholly towards defraying the cost of primary education. Now, it was urged that that could not be legally done. But I find that that contention is not right, and I invite the attention of honourable members to a provision made by the last Council, earmarking the proceeds of the cotton duty for the use of the Development Department.

The Honourable Sir CHIMANLAL SETALVAD: That was before the present rules came into force.

Mr. C. M. GANDHI: I am told that that was before the present rules came into force. But if you examine the fundamental rules also, you will find that there is no difficulty in this House deciding that the proceeds from this tax shall be spent for a particular purpose.

The Honourable the PRESIDENT: The honourable member is not entitled to tell the House that this House has got an absolute right of creating or increasing any charge upon the public revenues, without the recommendation of His Excellency the Governor. See section 80C of the Government of India Act.

Mr. C. M. GANDHI: I bow to your ruling, Sir, and that makes my position still stronger. If we are all agreed that the proceeds from this tax shall be earmarked for defraying the expenses of primary education, nothing is easier for us than to recommend to His Excellency the Governor that such a thing shall be done.

As soon as that position is accepted, the passing of this bill will become easy. If not, the members of this House will take into consideration whether they will not exercise their statutory power that we shall not allow this bill to be passed, unless and until its operation is limited to one year. Then it is open to

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us every year to say that the proceeds from this taxation should go to meet the expenses in connection with the spread of primary education. I hope that situation will not arise. If a proper representation is made to His Excellency,—no man is more keen on the spread of primary education than His Excellency,—there will be no difficulty in His Excellency accepting the recommendation. If that is not done, it will be my painful duty to oppose the second reading of the bill.

Mr. IBRAHIM S. HAJI (Bombay City): Sir, I do not think there is any doubt with regard to my position to the second reading of the bill. I have very strong reasons for opposing the second reading of the bill as it has emerged from the select committee, and in view of the subsequent amendments that are going to be proposed by the Honourable the Finance Member. In the select committee the Government Members did fully co-operate with the other members elected to that committee. I am surprised to see the cyclonic changes from a financial point of view which the Honourable the Finance Member has put forward with regard to the lowering of the duty on admission to race-course. This treatment which has been accorded to the other members of the committee creates a precedent which is absolutely unwholesome and unhealthy in a political body like this. If the Honourable the Finance Member or other Government Members had any objection that 50 per cent. duty is too much for the race-course, and if they had raised it, in the committee, the matter would have been discussed there. No such discussion took place there; on the contrary this proposal to tax the race-course to the extent of 50 per cent. came from the Government Members themselves. As representatives of the people we accepted the proposal. Now I find that it was a temptation thrown in our way to sign the report. I stand to-day not as one who signed the report realising the full import of the bill, but as one who was tempted to sign it. It is thus the House is being led unawares by Government and to such a position which necessitates the House to demand an honest explanation from the Government Members where they are going to lead to. Are they going to lead us to a financial cataclysm or a surplus budget? We have been asking the Honourable the Finance Member from day to day as to how our financial position stands. I also asked it in the committee, but no reply came forth. If there is going to be a deficit budget, then it is the bounden duty of this House to come to the help of the Government, and to suggest that a certain kind of new tax should be added. But there is no such information from the Government. If I read the figures rightly, and if I understand the speech of the Honourable the Finance Member when he introduced the budget, I understand the financial position of this Presidency at the end of the financial year will be a balance of 69 lakhs of rupees. Now, if 69 lakhs are going to be added to about 75 lakhs of rupees which they are expecting to get from stamps and court-fees, there will be no prospect of a deficit for the next year. If the Government are not taking this point of view which I am laying before the House, then it is the duty of the Government to explain to us the reason for the deficit, and where this 69 *plus* 75 lakhs have disappeared, leaving us to face a tremendous deficit. As long as this question remains mysterious, I cannot be a party to passing the second reading of this bill.

There is then the question of principle wheth · it is in the interest of the cinema industry of this Presidency to pass a bill o his nature. The cinema industry is a new one and requires not only protection from Government but also subsidy. Instead of protecting such an indigenous and growing industry

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the Government are coming forward to tax this new industry, because it is being controlled by Indians, because it is competing with the European cinema industry, because European industry is unable to sell cinema films here. This House will never be a party to tax a growing industry. In this respect I have got the authority of the Fiscal Commission of which the Honourable the Leader of the House was the president. It has been said that Indians have not the power of invention, and that has been attributed to want of industrial knowledge in the country. The cinema industry has advanced to such a position that it is able to stand on its own legs.

I beg to submit, Sir, that it is not so. The minority report of the Fiscal Commission, to which the Honourable the Leader of the House was a signatory, says :

"We believe that the industrial backwardness of India is in no way due to any inherent defects amongst the people of India, but that it was artificially created by a continuous process of stifling, by means of a forced tariff policy, the inborn industrial genius of the people."

I consider, Sir, that this new tax on the rising cinema industry will be nothing short of a stifling policy : this new industry will be stifled, strangled and nipped in the bud. If the House is not going to pay great regard to the minority report of the Fiscal Commission, then I will quote the majority report. They recommend :

"That discrimination be exercised in the selection of industries for protection and in the degree of protection afforded so as to make the inevitable burden on the community as light as is consistent with the development of industries."

The Honourable the PRESIDENT : It is very doubtful whether any fiscal question is raised by this bill and whether it is relevant. Taxes on cinemas, I presume, are also levied in other countries. Lengthy quotations from the Fiscal Commission's report had better be avoided.

Mr. IBRAHIM S. HAJI : I am sorry, Sir, but I never meant to read long quotations. I only wanted to show that the Fiscal Commission favoured the protection of Indian industries.

The Honourable the PRESIDENT : I see the point. The Honourable member means that whether these cinemas are taxed in other countries or not, for the purpose of developing the cinema industry in India it must be protected by freedom from taxation. From that point of view the remarks may be relevant.

Mr. IBRAHIM S. HAJI : Exactly, Sir. Now, with respect to the cinemas, the select committee examined certain witnesses who represented the cinema industry, and from the enormous mass of evidence given by them they came to the conclusion that the cinemas were not in a flourishing condition, and still the Government did not see their way to nominate certain representatives of the cinema industry in this Council. The Government have from time to time seen their way to nominate interested parties when they introduced certain important bills. They did so in the case of the Cotton Control Bill ; they did so in the case of the Port Trust Bill. If the Government had doubted the statement of the large number of witnesses who gave evidence before the select committee on behalf of the cinema industry, they should have asked those persons to be present in the Council. They should have insisted on His Excellency nominating them. Let them speak on the threshold of this House and speak for themselves whether it is not true that the cinemas are at present run at a great loss—if not at great loss, at least at some loss. Is this House going to give support to the Government to tax cinemas and thereby kill an

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infant and growing industry ? Is this House also prepared to see the cinema houses vacant ?

Then, the third point is this. Is this new tax going to fall on the proprietors of the cinemas only, as the Government are thinking ? It is not so. This tax is going to be taken from the persons who are going to see the cinema shows. This was part of the evidence, but it is not published. Hardly 20 per cent. of the rich persons go to the cinemas. Nearly 80 per cent. of the people, who are the poor and the middle classes, who have no clubs or other recreation—either band stands or Chowpati to go to, it is they who resort to these cinemas, after their heavy day's work. That is a club of their own. And the Government are unable to see that those persons should be allowed to go there and sit without paying extra taxation.

For what purpose is this tax wanted ? This tax is wanted for compulsory primary education. Is there any provision made in this bill that this amount will be appropriated for primary education ? No. But even if the Government make a provision that the sixteen lakhs which is expected from this source will be reserved for education I will not be satisfied at all. What is this sixteen lakhs of rupees as compared to the large sum which is essential for the compulsory primary education—about a crore and fifty lakhs. I am not going to accept this bill even if the Government said that they are going to introduce a provision to that effect. My contention is that this new tax is absolutely ill-advised. If Government can say that there is a rebellion in the country, or that they are at war with an outside country, then there will be some justification for them to introduce this bill of taxation on entertainments. In other countries this new taxation has been introduced only recently and that during the time of the war. Particularly in the United Kingdom it was resorted to during the Great War, and the tax might be removed within a year or two. In this Presidency the Government have introduced this new tax when there is no justification whatsoever. There is neither a deficit budget, nor an internal rebellion nor a war with an outside country. Why then, should the Government ask for this new tax ?

Sir, with respect to the theatres my position is similar to that in the case of the cinemas. You will remember, Sir, that petitions were received by this House and in those petitions it was stated that the cinemas were changing hands from one proprietor to another because they were running at a loss.

I have submitted to this House, Sir, that the tax will fall on the poor and middle classes. In the schedule attached to this bill it is provided that the higher rate of duty will be levied on the higher payments. But we have to see what is the number of the persons purchasing these costly tickets as compared with the number of persons who are going to purchase lower paid tickets. That is the basis to judge whether the tax will fall on the rich or the poor.

My next point is, that if the Government want to raise money by this taxation, they ought to bring in a bill year by year according to the financial position of the country. In this bill no provision has been made that this bill will remain in force for only two, three or four years. In the case of the Court Fees Bill this Council wanted that it should remain in force only for two years, and Government consented to that. But this bill has made no limitation to that extent, not even one year or two years. I was a member of the select committee and I had drawn the attention of the chairman of the select committee to this point, but unfortunately the majority did not accept my view. If such points are not paid attention to by Government, I doubt very much whether Govern-

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ment is dealing with this House in the manner in which this House deserves to be dealt. Last but not the least, the point which has been raised by the honourable member for Bombay, namely that this bill being a financial bill requires to be circulated in all parts of the Presidency, deserves careful consideration. This bill, therefore, ought to have been printed in every language which is prevailing in this Presidency and ought to have been widely circulated. With these words I emphatically oppose the second reading of this bill.

Rao Bahadur G. K. CHITALE (Ahmednagar District): It appears to me, Sir, that the atmosphere of Bombay is not congenial to this bill. On one excuse or another we find instances of special pleading going a long way in disputing the mode of taxation which, from my point of view, appears to me to be the most equitable. I will try to show from my point of view why it is so, and in performing that particular task I must say that no doubt there has been some change introduced with respect to some amount of detail in the bill which was not before us as it emerged from the select committee. To that I will come afterwards. But now, Sir, the elected member for Surat said that there is no promise that the amount would be earmarked for primary education. I would think, Sir, that unless and until we have no faith in the promises and words which have been uttered by the responsible Ministers, I would not rather go the length which he does, because, what is the position ? The position is this. The Education Minister while introducing the Primary Education Bill gave us a solemn promise, namely that the present expenditure on primary education will be maintained at the figure at which it at present stands. Even that amount will be the amount which will be spent on primary education. I will also draw the attention of the House to the report of the committee and the promise which is contained also in the Local Boards Act itself. According to the report of the select committee the grant-in-aid for compulsory primary education would be three-fourths of the expenditure or according to the amendment it is to be two-thirds. Now, that two-thirds of the expenditure for the spread of compulsory primary education will have to come out of Government funds or funds which are additional funds. I wish to impress upon this House, first that the total expenditure on primary education for the year stands earmarked. There is clear promise made and then, on the other hand, we have indicated in the Primary Education Bill that the grant-in-aid for the spread of compulsory primary education shall have two-thirds. Now the cost of spreading compulsory primary education in the first year is calculated at about 45 lakhs. That amount, therefore, will have to be found from sources of taxation which are new.

The Honourable member for Bombay spoke of certain resources which Government have and argued that the present financial position is satisfactory and that there was no need for fresh taxation. I must say, Sir, that that proposition is far from being proved. From the annual income and expenditure of Government as the accounts at present stand, you will soon find that in the month of February the normal annual income as it stands at present will fall short, and will fall short by several lakhs.

Mr. IBRAHIM S. HAJI: You are not the Finance Member of Government.

Rao Bahadur G. K. CHITALE: I am not the Finance Member, but I know how the finances stand, and I will challenge the other side to show where there is surplus which could be drawn upon. For the spread of compulsory primary education this House is committed and if you throw out this bill,

[Rao Bahadur G. K. Chitale]

either at this stage or at any subsequent stage, the effect of it perhaps to my mind would be to thwart the progress of the compulsory primary education. Government will decline to give any funds over and above what they have been doing, and for which a distinct promise is given, and therefore there will be no surplus funds from which this House can insist that the additional expenditure shall be met. Now the honourable member from Bombay said that it was rather killing an industry which required protection. I am not a cinema-goer and I do not know anything about it. But I have got my peculiar views. I think these cinemas are rather a corrupting thing and I am a Puritan from that point of view, and I have heard it said that many a thief and many of the other persons are copying some of the methods which are shown in the cinemas. I do not know whether it is true. But I do remember a speech made in this House on the subject, and when we were coming back from the Government House the other day, I do remember some remarks made by one of the honourable members here which are fresh in my mind, and I am perfectly certain that the cinemas are to a certain extent proving to be an evil. I do not also admit that it is an industry which does not deserve to be taxed. Then again, coming to the tax, it cannot be said that we are killing the industry. Is it fair to say that we will be killing the industry by taxing half an anna ? May I put it to the cinema goers, may I put it to my honourable friends here, that cinema-going is a bad habit ? Do not the people who go to the cinemas spend a lot of more money for *pan supari*, *bidis* and other things ? Is it not true that they do spend a lot of money on these things ? In fact, Sir, if they do spend money somewhere else, for my part I won't mind if the cinema industry is killed. So much the less opportunity for the poorer people to be enticed into spending their money.

Then again, Sir, it is not true to say that the poorer people are sweated by taxes. We heard evidence from witnesses from these cinema houses and they told us pointedly that there was no loss involved ; there was a small balance ; and when some of the witnesses were cross-examined, it came out that there was a surplus, not to the extent one could wish, but there was a surplus.

Mr. IBRAHIM S. HAJI : Was the cross-examination in your hands ?

Rao Bahadur G. K. CHITALE : It was in much better hands. However that may be, Sir,—I hope I will not be interrupted—the point that I was making was this that the cinemas do have surplus, and after making all allowances we came to the deliberate conclusion as a compromise that the lower classes should be exempted. But when it is said that we would be strangling the industry, I must point out that it did turn out in the evidence that, after all, one-third of the cinema goers belonged to the poorest class, namely, the class which comes under the lowest class ticket holders, namely 4 annas. It seems to me, therefore, that this bogey of the industry being strangled is only brought forward here to evade an equitable mode of taxation and I hope that this bill will be passed in some reasonable form acceptable to the House.

Then it was said, Sir, that it was a distinct breach of promise that the select committee was induced to come to certain decisions and now against that, there are some amendments standing in the name of the Government Member. Well, it must be said, Sir, that this is not the time to discuss that point, because I am for the second reading. When that amendment comes for discussion, we will know the reasons why it is sought to be pressed. But looking at it from the point of view which I have urged, lest my mofussil friends may be led away that their pride is wounded because Government does

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not give them a promise or because Government is improving the bill here and there, I must say, Sir, that we are losing a very valuable opportunity of putting on taxation for a purpose for which this House is evdeavouring for the last year and over. All our energies must centre on accomplishing at least one constructive part of the programme of making compulsory education free. For my part I would be very sorry indeed to lose this opportunity if the House thinks it quite reasonable to throw out the second reading of this bill and negative it. Under those circumstances, Sir, I recommend to my honourable friends here that they should set their faces against the opposition and pass the second reading. When the amendments come up for discussion, they may use their intelligence and vote accordingly.

Mr. P. J. MEAD : Mr. President, I desire to support my honourable friend from Ahmednagar in his lucid statement as regards provincial finances and the necessity for this financial measure in order to make compulsory education a possibility. I do not know much about the terrible effect of constant attendance at cinemas, but I think we must all recognise that it has had a certain effect on the intelligence of the honourable member from Bombay so far as regards the study of figures ! I know nothing of the 69 lakhs on the one hand and of the 75 lakhs on the other, which are alleged to have disappeared, but I do know that the honourable member has recently had before him the six-monthly estimates, which show perfectly clearly that, with an exceptionally favourable season, there is a chance this year of balancing revenue and expenditure. If the honourable member had gone a little further and analysed those figures, he would also have realised that on the revenue side at least there is this year a most exceptional windfall—a windfall common in this Presidency in any good year following a famine. The normal revenue of this Presidency may on this account be taken at 90 lakhs less than the revenue anticipated in the current year ; and this is a fact which the House will have to consider when the budget is presented. If you wish to bring in any measure, such as a bill for compulsory education, involving additional expenditure to Government this House must provide the money.

Rao Saheb D. P. DESAI ( Kaira District ) : Sir, I think this bill is rather disappointing, disappointing in this way that the select committee has extended the concession from 4 annas to 6 annas, and again there was no reason for the Honourable the Finance Minister to exclude the most important item in the race-course from the operation of this bill. He excludes the totalizator. Besides earmarking of the revenues derived from this Act has not been made. I should have thought that there was no objection to earmark the proceeds of this bill for compulsory education especially as every year there will be greater expenditure under the Education Act and the proceeds of this bill should have been devoted to cover this greater expenditure ; there was, therefore, no objection to earmark the proceeds of this bill for compulsory education. We have just now heard that further concession should be given to the cinema-goers and the theatre-goers. In the original bill the concession was proposed for 4 anna tickets and I think that was quite enough, because I know that larger revenue is derived by the cinema companies from the people who purchase cheap tickets. My honourable friend from Bombay has rather referred to subsidising starving industries and such economic arguments. If an industry is starving from sheer poverty, then of course subsidising will be necessary, but cinemas and theatres are not starving, and I think as we have

[Rao Saheb D. P. Dessai]

passed the Compulsory Education Bill, we cannot go behind at this late stage. If that bill had not been passed or if it was not our intention to pass the second reading of it, then it would have been somewhat right for us to say that we do not want this Entertainments Duty Bill, but having once passed that bill, we cannot now say that we are not going to provide the necessary money required for carrying out the provisions of that bill. At the same time if by recommitting it to the select committee to consider the point whether the race-horse should not be harnesssd into the service of the State.....

The Honourable the PRESIDENT: Order, order. I have ruled that out of order as beyond the scope of the bill. Will the honourable member kindly respect the ruling?

Rao Saheb D. P. DESAI: I simply wished to harness the race-horse into the service of the State. As regards the benefit that is derived from cinemas and theatres, the best test which I would put it to, is this: have we or have we not grown wiser since the advent of cinemas and has the general health of the community benefited through the kind of recreation provided by cinemas? If this House is prepared to believe that Bombay or for that matter any other city has not grown wiser from this cinema entertainment, then I think they are quite justified in levying any extra cess on the price of admission to such entertainments. But at the same time I should just request my honourable friend from Bombay that if he is not prepared to tax cinema and other theatres, at least he should point out a way as to from which source to get this extra money which is required for compulsory education. We have anyhow got to provide for compulsory education. The best source available at present is entertainments which we should, therefore, tax. I would, however, request the Honourable the Finance Member not to move his amendments. He has given notice of some amendments. If Government want to go behind what they have once undertaken to do and want to go behind the report of the select committee in regard to race-courses, I think it will be open to members of this Council to say they too can do the same in regard to other entertainments. For this reason I would request the Honourable the Finance Member not to move his race-course amendments.....

The Honourable the PRESIDENT: I do not think that it is quite fair to anticipate amendments which are going to be moved. If Government have given notice of any amendments to the bill as amended by the select committee, then it is quite open to the Council to reject such of them as they like on the proper occasion. A brief argument on that point is all right, but I see there is a tendency to make too much of it at this stage.

Mr. G. FINDLAY SHIRRAS: Mr. President, I wish briefly to answer a few of the arguments put forward on the other side of the House by my honourable friend the member for Bombay City (urban Mahomedan). He said, if I understood him aright, that the tax was a bad tax. Now, financially the tax is a good tax. We all know what we have to pay, *i.e.*, it is certain; it is equitable; and it is convenient. It has in fact all the canons of a good tax. Secondly, the honourable member said it was a war tax and he led the House to understand (I hope I understood the honourable member rightly) that it was intended merely as a war tax. Now, anyone who studies the finances of other countries, will find that this is anything but so. Take for example the United Kingdom. It started with an excise duty on amusements in 1917.....

Mr. IBRAHIM S. HAJI: Was there no war in 1917?

Mr. G. FINDLAY SHIRRAS: Certainly there was war in 1917, but that does not mean the tax was intended for the war only. It was introduced in war time. The excise authorities in the United Kingdom (I can say from first-hand knowledge) have looked on this tax more or less as a permanent tax and as an extremely good tax. In 1917 it brought in £3 million; in 1921 nearly £12—by no means a negligible amount. So far then as regards the tax being a war tax.

The next point made—if I understand the honourable member rightly—was that it is strangling the cinema industry. I have studied the amendments of the bill and I am sure any one who looks into it will see that it is anything but strangling the cinema industry. It is true that this cinema industry in this part of India is suffering like the cinema industry elsewhere. The cinema industry in the United Kingdom during the last year has been in a similar state. But if you look at the amendments which the Honourable the Finance Member is to bring forward, you cannot get away from the fact that they are put in such a way that it is plucking the goose with as little squealing as possible.

Lastly, I should like to refer briefly to the argument that the tax is not required. I have for many years been a keen student of Indian finance and I have looked through our figures for the last ten years, and my own conclusion was the same as that of the honourable member, the Chief Secretary, that at the end of this year we will come out just about square, but our closing balance will not be anything like so great as it was a few years ago when we reached in 1919-20 a sum of 444 lakhs. Therefore, really we want money, and I agree entirely with my honourable colleague from Ahmednagar that primary education must be pushed forward with tremendous and serious alacrity. It has been part of my duty here during the last eighteen months to study labour problems and really we are like sick people trying to drink at a well and not getting fresh water at all. Some of us are extremely thirsty and what we require is the pure sweet water of primary education. If we get primary education, we will get a higher standard of living, better production, and all the conditions which other countries have been enjoying since many, many years ago. Without money this cannot be done. I, therefore, hope that the House will unanimously pass the second reading of the bill.

The Honourable Dr. R. P. PARANJPYE: Mr. President, I rise to support the second reading of this bill, because I am convinced that if the House rejects this bill, the further progress of the Education Bill will not at all be possible. Personally, I believe that this tax is one of the most equitable that could be levied, in order to effect reforms which are in the interests of the general public. It is a tax which is not levied upon necessities. If anybody wants to escape this tax, all he has to do is to stop going to cinemas, and nobody, not even the honourable member for cinemas (laughter), I mean the honourable member for Bombay, will contend that the cinema is a necessity of the same kind as food and clothing. Personally, I do not think that this tax will fall heavily upon me; in fact, I never go to cinemas and races. In any case, for even the most habitual cinema-goer the tax will not be difficult. For, you will find that the rates proposed are about 25 per cent. on an average. That only means that if a person at present goes to the cinema five times, he will, after this tax is imposed, if he wishes to spend no more than what he is doing at present, have to go to these places of amusement only four times. I do not think that that is as great a hardship in any way as my honourable friend contends.

[Dr. R. P. Paranjpye]

Then again, he was saying a great deal about the cinema industry, and about our desire to protect it. I would put one point before him. The tax will be levied, first of all, equally upon Indian and foreign cinema films, and the Indian industry will not be affected in any way more than the foreign industry. Already, there is a certain import duty upon foreign cinema films. It is not proposed by this Act to tax cinema films produced in this country; on the other hand, according to the tariff of the Government of India, imported films are subjected to these duties, and consequently I do not believe there is any point in the argument that our cinema industry will be ruined.

Some honourable members mentioned that this will be a tax on the proprietors of cinemas. But they are able to take care of themselves; they will soon transfer this tax to their patrons and not pay it themselves.

Then again, some of the honourable members have said that this tax will fall upon the poorer people. I think it is as fair a tax to levy upon the poorer people as we possibly can, because the proceeds of this tax are to be used for the benefit of the poorer people. We do not want to tax the poor man's necessaries, but if the poor man can pay something out of his luxuries, I think it is a reasonable, demand to make upon the poor man.

Finally, Sir, my honourable friend from Bombay said that this tax should be confined only to one year, and that it should be passed.....

Mr. C. M. GANDHI: (Made an observation which was inaudible).

The Honourable Dr. R. P. PARANJPYE: As regards earmarking, it has been ruled that, according to our financial rules, earmarking is not the proper way of keeping accounts. Government, however, gave a distinct undertaking that the proceeds of this tax will be used for purposes of education. My honourable friend from Bombay wants that this tax should be passed from year to year. From the point of view of a Minister of Education, I might point out to him that we cannot undertake an extensive programme for education, unless we are quite certain about the means at our disposal. If we have a tax whose life is only for a year, we cannot make any scheme which will continue for a large number of years. What would happen? In fact, if this tax were stopped by the next Council, all the undertakings now given would have to go by the wall. The local bodies will have schemes for education, they will engage teachers, and certain undertakings will have to be made with the teachers, and Government will have to help them. Government or any local body cannot enter into any of these undertakings, if they feel that they cannot depend upon the resources that will be placed at their disposal. I think this demand to impose the tax only for a year, when it is intended for educational purposes, is a thing that will not recommend itself to the members of this Council.

Mr. C. M. GANDHI: (Made some observation which was inaudible).

The Honourable Dr. R. P. PARANJPYE: I do not think so. In that case, the Council will have to take an active step in stopping this tax; as proposed by the honourable member the tax will lapse by itself unless renewed. I believe my honourable friend who is a distinguished pleader will find that there is very great difference between these two points of view. In any case, I think if this tax has to be levied at all, it will have to be of a permanent nature, so that the grants to be made will all be recurring grants. With these words, I cordially support the second reading of this bill.

Mr. M. W. PRADHAN (Thana District): Sir, I move for a closure.

Mr. B. G. PAHALAJANI (Western Sind): Sir, a closure has been moved and, if it is not accepted, I should like to say a few words.

The Honourable the PRESIDENT: I accept the closure and call upon the Honourable the Finance Member to reply.

The Honourable Mr. H. S. LAWRENCE: Mr. President, we have had a complete investigation of the question on the second reading. I do not think there is very much occasion for me to go over matters of detail. Most of the honourable members who have spoken have addressed themselves to the amendments which will come in for full discussion when the bill is read clause by clause. Of the general objections that have been taken, the most important one was by the honourable member from Bombay (Mr. Haji), with regard to the financial position. But I think that the House will have fully understood that his suggestion as to the abundant balances that we shall have to deal with this year has no foundation in fact whatever; I wish it had.

Mr. IBRAHIM S. HAJI (Bombay City): May I make a personal explanation, Sir? I did not mean that Government are not in a position to account for the disappearance of 65 lakhs on the one side and 75 lakhs on the other, but what I meant was this, that if the Government say that they are having a deficit budget, then I would certainly ask "What has happened with the reserve of 69 lakhs and the yield of 75 lakhs from Stamps and Court-fees"?

The Honourable Mr. H. S. LAWRENCE: I only hope that the honourable member will give some attention to the six-monthly estimates which reached his hands a few days ago. Those six-monthly estimates will convince every member of this House that there has been no such disappearance of public funds as is feared by the honourable member, and, in fact, this year we have been exercising the most rigid economy. In spite of that we shall have the greatest difficulty in balancing our budget for the coming year. That being so, when this House has decided on a policy that requires very greatly increased expenditure, such as the extension of primary education, it is a matter of actual necessity that the funds should be supplied. One honourable member has said that the Bengal Amusements Tax has been a failure and has not supplied the revenue anticipated. That member is presumably not aware that the Act in Calcutta came into force with regard to cinemas on the first of October and there has not been sufficient time to ascertain what the result of the Act has been.

In regard to the suggestion that the money obtained from this tax should be earmarked for primary education, I can only say once more what I have said before on various occasions that to earmark a particular source for a particular subject is contrary to the financial system of this Government. We have previously stated that the amount realised from this source will be devoted for primary education. The House has its Minister charged with the care of education; and Dr. Paranjpye will see that the amount obtained from this source is not devoted to any other purpose. I think it would be wise for the House to leave the matter in the hands of the Honourable Minister for Education. It has already been stated that there is no objection to maintain a *pro forma* account so that at any time members of this House can see how much money has been obtained from this source. The House, I am sure, does not regard Government with so much suspicion as to insert a special provision in the Act which is contrary to the whole system of Government.

The Honourable the PRESIDENT: Do you give an undertaking that the money received from this source will be spent on primary education, although there is no statutory provision ?

The Honourable Mr. H. S. LAWRENCE: Yes; Sir.

The Honourable the PRESIDENT: I think I have already given a ruling that an undertaking given by Government through any of its members is binding on the Government in the sense that, if it is broken, the House may pass a vote of censure and oust the Minister.

The Honourable Mr. H. S. LAWRENCE: I do not wish to take up the time of the House at this late hour and deal with individual amendments; but one point I wish to refer to is about complimentary tickets. There is already an amendment to reject the clause and, when that amendment comes forth for discussion, the House will be able to exercise its judgment whether it is necessary to retain a provision regarding complimentary tickets, or whether it would be wise to exempt complimentary tickets from all payment of duty.

The honourable member for Kaira was very pessimistic while discussing the provisions of this bill. I gathered that he was discussing whether he became healthier or wiser by going to cinemas. Let me commend to him the philosophy of professor Coué, and on leaving the cinema let him say in every way I grow healthier and wiser day by day.

Mr. IBRAHIM S. HAJI: One word, Sir. Do the Government undertake to add the amount received from this source to what they are already spending on primary education.

The Honourable the PRESIDENT: It is for the Finance Member and the Education Minister to say.

The Honourable Mr. H. S. LAWRENCE: That is certainly the sense in which the undertaking is given.

The Honourable the PRESIDENT: I asked the question in order that it might be on record.

Mr. IBRAHIM S. HAJI: It must be a proper undertaking.

The Honourable the PRESIDENT: I cannot understand these suspicions. The undertaking is perfectly clear. The honourable member must realise the difficulties he creates. I have already stated that an undertaking is binding. In the case of a statutory provision the Government may bring in legislation to alter it; but an undertaking is a moral obligation and the Government would lose its reputation if it is broken.

Bill read a second time. Question put and agreed to.

*Bill read clause by clause.*

The Honourable the PRESIDENT: The bill will now be read a second time, clause by clause.

Clause 1 (*Short title, extent and operation*):

"(1) This Act may be called the Bombay Entertainments Duty Act, 1923.

(2) It extends to the whole of the Bombay Presidency.

(3) It shall come into operation in the first instance only in the city of Bombay, the Ahmedabad municipal district and cantonment, the Surat municipal district, the Poona city and suburban municipal districts, the Poona cantonment, the Sholapur municipal district and the Karachi municipal district and cantonment: but the Governor in Council may by notification in the *Bombay Government Gazette* direct that it shall come into operation in any other local area on such date as may be specified in such notification."

Clause 1, sub-clause (2) ordered to stand part of the bill.

Mr. IBRAHIM S. HAJI: Sir, I rise to move an amendment with regard to sub-clause (3) that after the word "notification" in that sub-clause.....

The Honourable the PRESIDENT: I think you are going only to add at the end. I will put the clause as it is and then you can move your amendment.

Clause 1, sub-clause (3) ordered to stand part of the bill.

Mr. IBRAHIM S. HAJI: I beg to move:

"That at the end of clause 1, sub-clause (3), after the word 'notification' where it last occurs insert the words 'and shall remain in operation for two years thereafter'."

The Honourable the PRESIDENT: The honourable member had better move "Add as sub-clause (4) that this Act shall remain in operation for two years thereafter." But there is difficulty about the word "thereafter". From what date is the period to be computed?

Mr. IBRAHIM S. HAJI: Government can by notification direct that the Act shall come into operation from a certain date. I mean from that date.

The Honourable the PRESIDENT: That is, Government are to direct? The House has already adopted the clause:

"But the Governor in Council may by notification direct that it shall come into operation in any other local area on such date as may be specified in such notification."

It gives Government discretionary power only in relation to "any other local area" and not in relation to Bombay, Ahmedabad, Surat, etc. Does the amendment mean that Government shall give a direction that the Act shall remain in operation for two years but not more?

Mr. IBRAHIM S. HAJI: It ought to notify that the Act shall remain in operation for two years.

Mr. C. M. GANDHI: Sir, the Act comes into operation in Bombay, Ahmedabad, Surat, Poona, etc., as soon as it is passed, but as regards the other parts of the Presidency, it shall come into operation only when a notification is made. So, the honourable member wants to restrict the operation of the Act for two years only as regards the other areas.

Mr. IBRAHIM S. HAJI: I want the Act to remain in operation only for two years in the whole Presidency. I thought that would be the meaning of my amendment.

The Honourable the PRESIDENT: Clause 1, at the beginning of sub-clause (3) states: "It *shall* come into operation"—it does not say that it *may* come into operation—"in the city of Bombay, etc.", but in the case of the other places it says "the Governor in Council may by notification direct that it shall come into operation".

Mr. IBRAHIM S. HAJI: But when will the Act come into operation in Bombay, Ahmedabad, etc.?

The Honourable the PRESIDENT: An Act comes into operation as soon as it passes and receives the assent of the Governor unless otherwise provided for.

Mr. IBRAHIM S. HAJI: What I mean by notification is, the notification by Government of the assent of the Governor.

The Honourable the PRESIDENT: I am afraid the honourable member cannot move a totally different amendment, but he may move his amendment though it will not mean what he wants and I shall have to warn the Council. The honourable member wants that this Act shall remain in force only for two

[The President]
years and that that restriction should apply to all parts of the Presidency. That is not his amendment.

Mr. IBRAHIM S. HAJI: I want to explain. What I meant by notification was the notification by Government.

The Honourable the PRESIDENT: That notification does not apply to Bombay, Ahmedabad, Surat, Poona, etc., where the Act applies at once *ipso facto*.

Mr. IBRAHIM S. HAJI: Sir, this notification in this sub-clause means notification by which the Government announces the assent of the Governor.

The Honourable the PRESIDENT: That notification applies only to the other places.

Mr. IBRAHIM S. HAJI: I would move my amendment then as follows:

"That this Act shall remain in operation for two years."

The Honourable the PRESIDENT: That is a new amendment. The original amendment was "that it shall remain in operation for two years from such date".

Mr. IBRAHIM S. HAJI: My wording was "thereafter".

The Honourable the PRESIDENT: "Thereafter" means after that notification. Now the honourable member is for affecting the whole Act. This is a new amendment and I cannot allow it.

Mr. IBRAHIM S. HAJI: I move:

"That the words 'The Act shall remain in operation for two years' be inserted after the word 'notification',"

if you will allow it.

The Honourable the PRESIDENT: That is a very substantial amendment which goes to the root of the whole Act.

Mr. IBRAHIM S. HAJI: I did not intend to apply this restriction only to the other areas.

The Honourable the PRESIDENT: It is not a question of intention. The honourable member's present amendment is quite a new one and affects the whole Act. Notice ought to have been given of it; so I cannot allow it. Does the honourable member now move his amendment as it is?

Mr. IBRAHIM S. HAJI: No, Sir, if you interpret it that way.

*Clause 2 (Definitions).*

In this Act, unless there is anything repugnant in the subject or context —

(*a*) "entertainment" includes any exhibition, performance, amusement, game or sport to which persons are admitted for payment;

(*b*) "payment for admission" includes any payment made by a person who, having been admitted to one part of a place of entertainment, is subsequently admitted to another part thereof for admission to which a payment involving duty or more duty is required and any payment for seats or other accommodation in a place of entertainment;

(*c*) "proprietor" in relation to any entertainment includes any person responsible for the management thereof; and

(*d*) "admission to an entertainment" includes admission to any place in which the entertainment is held.

Rao Bahadur R. R. KALE (Satara District): Sir, I move that:

"In clause 2, line 11, at the end of the definition of 'admission', sub-clause (*d*), add 'and admission for the purpose of amusement by taking part in an entertainment'."

[Rao Bahadur R. R. Kale]

The definition of "admission" as given in the bill is rather insufficient and it may not be intended to reach persons who enter or who seek admission for the purpose of taking part in an entertainment, and I may point out that this refers to persons who seek admission to a race-course not only for the purpose of being spectators or on-lookers but persons who enter and seek admission for the purpose of taking part in an entertainment itself. I think it is necessary to make this point clear, because persons who seek admission to a race-course go there for two reasons. Some seek admission as on-lookers and others seek admission for the purpose of taking part in the entertainment itself and, so far as they are concerned, we do intend to tax all sorts of persons, namely, those who seek admission for the purpose of being merely spectators and also others who take part in the entertainment by betting.

The Honourable the PRESIDENT: I understand whether a person goes in for betting or for seeing the race, both are taxed under this clause.

Rao Bahadur R. R. KALE: My point is that the definition is rather vague.

The Honourable the PRESIDENT: If that is vague, this amendment is vaguer-still. I cannot understand how the honourable member is going to dive into the motive of a man for the purpose of finding out whether he has gone there for amusement or betting or otherwise.

Mr. B. V. JADHAV: Sir, I think I must oppose this amendment, because it is not reasonably complete and because it will cause great hardship to all, and will not affect those whom it intends to tax. In the first place, as regards the words "admission for the purpose of amusement by taking part in an entertainment", the owners of horses run on a race-course take part in the entertainment, and will come under the proposed amendment, and I do not know how the honourable mover proposes to tax the amount collected by the totalizator as the bettors cannot be said to take part in the entertainment. If the honourable mover intends that the fees that the owners of horses have to pay for entering them for the several events should also be taxed, then I am afraid the entrance fees paid in athletic sports and tournaments by the different candidates will also have to be taxed under this amendment. This will be quite undesirable as it will cause a great hardship. I therefore oppose this amendment.

Rao Bahadur G. K. CHITALE (Ahmednagar District): I do not know, Sir, whether the members of the Turf Club come in under the present conditions. I think not, because members of the Turf Club may buy a ticket if they come in as a matter of right. But I do not wish that they should be allowed to go scot-free, because they pay no tax. Also members of the Turf Club are really people who can pay a little more tax and it would be quite justifiable to tax them. Now, they come within the four corners of that definition, because it includes admission. But they say that they are there as a matter of right to run the whole show, and that they are the members of the Turf Club and as such owners and have a right to come in. It is only the visitors who come in who have to pay the tax. Under these circumstances, Sir, if it is intended to let these gentlemen go, then I think I should rather like to catch them. But by the amendment I should think, Sir, that this vagueness would disappear.

The Honourable the PRESIDENT: There is one thing which strikes me and which may help the honourable member to realise the vagueness. His whole mind is concentrated solely upon the race-course, but it must be

[The President]
remembered that this bill applies to theatres, cinemas and other entertainments. Now, the honourable member's amendment, namely, "admission for the purpose of amusement by taking part in an entertainment" would include even the actors.

Mr. C. M. GANDHI: Actors are not admitted for payment, so they will be excluded. Here admission is admission for payment and therefore actors won't come in.

The Honourable the PRESIDENT: The definition in the bill is not exhaustive and therefore if the honourable mover's definition goes in, the players and actors may also be mulcted. That is not evidently meant. I am afraid I must rule the amendment out of order as being vague and not reasonably complete.

Rao Bahadur G. K. CHITALE: Before final ruling is given, will you please consider, Sir, what is the object of the whole bill?

The Honourable the PRESIDENT: I say this is an amendment which is in point of language vague and not reasonably complete.

Rao Bahadur G. K. CHITALE: I do not wish the members of the Turf Club to escape. That is my object.

The Honourable the PRESIDENT: I have nothing to do with the members of the Turf Club. I am only concerned with the question whether the amendment is in order so as to compel me to put it to the House. I say it is not in order because it is not reasonably complete in that it is vague. It also goes beyond the scope of the bill. Now I will put clause 2.

The question is that clause 2 do stand part of the bill.

Rao Bahadur R. R. KALE: Does it mean clause 2 including all the sub-clauses?

The Honourable the PRESIDENT: When I say clause 2, it brings in all the sub-clauses.

Rao Bahadur R. R. KALE: Is it possible, Sir, to put the sub-clauses one by one?

The Honourable the PRESIDENT: That entirely depends upon my discretion. I know the honourable member is reminding me of a ruling which I gave last year. That was only to see that the House was not prejudiced, but in the present case I do not think it is necessary to put the sub-clauses separately.

Rao Bahadur R. R. KALE: I submit, Sir, that the definition of sub-clause (*d*) was added in the select committee; it was not in the original bill. So we might leave it as it is. That is what I think.

Clause ordered to stand part of the bill.

Clause 3 (*Duty on payments for admission to entertainments*).

(1) There shall, from the 1st day of February 1923, be levied and paid, to the Government of Bombay, on all payments for admission to any entertainment, a duty (hereinafter referred to as "entertainments duty") at the following rate, namely :—

Where the payment, excluding the amount of the duty, is made for admission to a race-course licensed under the Bombay Race-Courses Licensing Act, 1912, 50 per cent. of such payment and in any other case;

Where the payment, exluding the amount of the duty—

| | | |
|---|---|---|
| exceeds six annas but does not exceed twelve annas | .. | .. One anna; |
| exceeds twelve annas but does not exceed one rupee | .. | .. Two annas; |

| | |
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| exceeds one rupee but does not exceed two rupees .. | .. Four annas ; |
| exceeds two rupees but does not exceed three rupees .. | .. Six annas ; |
| exceeds three rupees but does not exceed four rupees .. | .. Eight annas ; |
| exceeds four rupees but does not exceed five rupees .. | .. Twelve annas ; |
| exceeds five rupees but does not exceed seven rupees eight annas | .. One rupee ; |
| exceeds seven rupees eight annas but does not exceed ten rupees | .. One rupee eight annas ; |
| for every five rupees in excess of the first ten rupees, in addition to the payment on the first ten rupees .. .. | .. One rupee. |

(2) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any society, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, or for any privilege, right, facility or thing combined with the right of admission to any entertainment or involving such right of admission without further payment or at a reduced charge, the entertainments duty shall be paid on the amount of the lump sum ;

but where the Governor in Council is of opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment, or covers admission to an entertainment during any period for which the duty has not been in operation, the duty shall be charged on such an amount as appears to the Governor in Council to represent the right of admission to entertainments in respect of which the entertainments duty is payable.

(3) A complimentary ticket shall for the purposes of this Act be deemed to be issued on payment of such amount as the Governor in Council may by rule determine.

Explanation.—A complimentary ticket includes any permission entitling any person to admission to any entertainment without payment or on special terms of payment.

The Honourable Mr. H. S. LAWRENCE: Mr. President I move:

"That in line 5, clause 3 (1), the words '50 per cent.' shall be deleted and '25 per cent.' substituted."

That is to say, for admission to the race-course the duty should be 25 per cent. of the payment and not 50 per cent. The bill as orginally drafted, as the House is aware, provided that 25 per cent. should be levied as duty for admission to the race-course and it was in the select committee that it was altered to 50 per cent.

(At this stage the Honourable the President withdrew and Dr. K. E. Dadachanji occupied the chair.)

Subsequently, however, Government considered the report of the select committee and came to the conclusion that it would be wiser to adhere to the figure 25 per cent. The Council are aware that Government propose to levy from the Turf Club certain sums of money in proportion to the sums that are received upon the totalizator and they hope to derive a considerable revenue by that means. The principle that the State should derive as much money as possible from the Turf Club is accepted, if not unanimously by this House, at any rate by the great majority, and if that is admitted, then, Sir, I submit to this House that the principal question we have to consider is by what means shall we secure a larger share of that revenue towards the Government exchequer.

(At this stage the Honourable the President resumed the chair.)

That being so, Sir, it is obviously our duty and it is to our interest to impose no unnecessary obstacle on people frequenting the race-course and thus swelling our revenue. If by levying any high rates on admission to the race-course we make it difficult for people to frequent the race-course, then, Sir, the only result will be that people will go elsewhere and they will gamble by some other means and not benefit the exchequer of the State. Now we have gone through the figures of admission to the race-course with very great care. We know, for instance, exactly how many tickets of every kind are sold in Bombay and in Poona. We know the total receipts amount to about Rs. 8,00,000. Twenty-five per cent. of that would therefore represent Rs. 2,00,000. We have

[Mr. H. S. Lawrence]

reason to believe that if the rate is fixed at 25 per cent. then the Turf Club would as in Calcutta continue to charge the same rates for admission as they have been doing hitherto and pay the tax themselves. If the rate for admission is not put up against the public, we may anticipate that the number of the frequenters of the race-course would be about the same as before, and we can then rely on getting a revenue of something like Rs, 2,00,000 clear from the admissions to the race-course. If, however, we were to leave the figure at 50 per cent. it is believed that the Turf Club would find it necessary to enhance the price of their tickets. In that case the number of subscribers would decrease and we should not be at all certain of securing the additional revenue that might be expected otherwise by simple multiplication by two.

One honourable member has been agitating himself rather prematurely on the supposition that gentlemen who are subscribers to the Turf Club obtain entry into the race-course without payment. If that honourable member studied this bill carefully, he would see that in sub-clause (2) of clause 3 that contingency has been fully provided for. Gentlemen who belong to the Turf Club or those who subscribe to the Turf Club will not be exempted from payment as has been clearly laid down in sub-clause (2) of clause 3. I submit to this House, therefore, that there is no suggestion in this matter of an improper concession to the wealthy. It is purely a matter of business—how are we to extract from the Turf Club and its patrons the maximum of revenue to the benefit of the State exchequer ? That is the main goal to be aimed at and it is the opinion of Government, after full consideration of the matter, that Government is likely to receive more revenue by reducing the figure of 50 per cent. to 25 per cent. It is for this reason that I place this amendment before this House in full confidence that it will be accepted.

There is one other point that I should like to lay stress on. One honourable member suggested that it is improper for a Member of Government to make any observations on the recommendations of the select committee. That, Sir, is a position which no Member of Government can possibly consent to. After a bill is referred to a select committee, the select committee discusses it and forms its opinion. A Member of Government sitting there is sitting in a two-fold capacity, as a member of the select committee and as a Member of Government, and he must carry that decision of the select committee to the final decision of Government as to what is the best course to be adopted by Government. This decision of Government, of course, has to be placed before this Council by the Member of Government in charge of the bill. I do not admit for a moment that we have gone back upon any undertaking or any guarantee whatever given to the select committee.

I commend this amendment to the good sense of this House in full confidence that it will be accepted.

Rao Bahadur R. R. KALE (Satara District): Mr. President, in the first instance this clause is an altogether new clause. The Honourable the Finance Member said that the bill as originally framed contained 25 per cent. From a copy of the bill which I hold in my hand I find that there was no provision whatever, there is no clause like this at all. Clause 3 only ended by "namely" and then began with "the other payments" etc., that is to say, the rates which are given in the revised bill from line 18 downwards. I therefore submit that the Honourable the Finance Member is entirely wrong when he stated that the bill originally contained 25 per cent. and the select committee had increased it to 50 per cent. I therefore submit that this is altogether a

[Rao Bahadur R. R. Kale]

new clause and what we have got to deal with is that in select committee this question of race-course was considered for the first time. Now, therefore, the question is whether this clause as has now been inserted, by which the duty to be levied is 50 per cent. of the payments for admission, whether this should be reduced to 25 per cent. In my opinion as a matter of fact it is too little. In fact it ought to have been much more. However, we need not go into that matter, but it is rather strange that Government now wish to reduce the 50 per cent. to 25 per cent. The proprietors of the Turf Club are wealthy enough to bear the 50 per cent. They need not complain that their income will be reduced. I do not see how it will be reduced, because, after all, I understand that this 50 per cent. is to be recovered from the managers or owners of the Turf Club. So far as I understand it, the Turf Club has a very large and extensive income — so great that it will hardly make any appreciable difference to them at all. It is not to fall upon the spectators or persons seeking admission. The race-going public will be going to the races all the same.

We have now taxed visitors to cinemas, theatres and other entertainments, and a small reduction (assuming there will be any) in the number of visitors to the races will not much matter. I therefore submit that this reduction is not sufficient and the clause ought to be allowed to stand as it is.

Mr. G. B. TRIVEDI (Thana District): Mr. President, the argument advanced by the previous speaker that he does not want to kill the goose that lays the golden egg, applies also to other entertainments which are proposed to be taxed. He says that we are going to tax the Turf Club on their income; we are going to take a certain portion of their income, and if by any means we discourage visitors to the race-course, the income of the Turf Club will suffer, and therefore, ultimately the provincial revenue in the matter of the income from the race-course will also suffer. Shall I not also reverse the argument and say that cinema owners and theatre owners, if they make a profit, are paying income-tax to the Government, and that if they are prosperous we will get money in another way? Of course, the provincial Government will not profit by it, but the Imperial Government will certainly benefit. That is one thing.

The other agrument that I was astounded to hear from a Member of the Government was his saying that we ought to encourage people to go to the races, and not discourage them in any way. If Government is interested in the moral uplift of the people, as he himself admitted, the race-course is a thing which people ought to be discouraged from resorting to, not merely from the moral point of view, but from the mercenary point of view also. But he says that the more people there are who go to the races, the more will be the income of the Turf Club, and indirectly the provincial revenues will profit. Now, as a responsible member of our Government, who is interested equally well in finding money as well as in improving the morals of the people, is it not astounding that we should be asked to support measures which will encourage gambling among the public? We would rather be glad if that tainted money could be stopped. But looking to the state of the provincial revenue, it cannot be stopped at present, but that does not mean that Government should advance the argument that it is interested in seeing that the number of visitors to the race-course is not diminished. I suppose that, if other measures were to be brought forward to induce more people to go to the races by the Turf Club under their license, he will support such measures in order to encourage visitors to go to the races. Such an argument from a responsible Member of Government has never

[Mr. G. B. Trivedi]

been heard, and I hope that this House will set its face against such an argument. I wonder how my honourable friends, the member from Ahmednagar and the Education Minister, who were so very eloquent in saying that people should not go to the cinemas if they don't like to pay the tax, will like the argument of the Honourable the Finance Member. The Honourable the Minister of Education said that he did not think that cinemas were doing any good, and if according to him cinemas are to be discouraged, there would be much more reason why people should be discouraged from going to the races. If the Honourable Minister of Education was consulted about this matter, I hope he voted against it. I am sure that it is not a proposal which has the support of my honourable friend the Minister of Education, and therefore I oppose the amendment and would support the 50 per cent. increase.

Then, the income, as the Honourable the Finance Member has stated, does not come from the race-goers; according to the example of Calcutta, it will come from the coffers of the Turf Club, and it is contended that if we keep the tax at 50 per cent. the Turf Club will suffer. We do not know when the promised bill to tax totalizators will come and how long we shall have to wait for that income. In the meantime, we will be suffering a loss of Rs. 2 lakhs, according to his own estimate; so that, either way it comes from the Turf Club. Why not tax them now, and ask them to pay Rs. 4 lakhs instead of Rs. 2 lakhs? Government are interested in getting more revenue as much as the honourable members, but while Government are not willing to kill the fat goose of the race-course, they are willing to kill the lean goose of the cinemas and theatres. I hope, therefore, that the House will reject the amendment.

Mr. IBRAHIM S. HAJI (Bombay City): Mr. President, I do not want to press forward the argument that we should first become gamblers and then have primary education. What I want to say about this amendment is that I feel it my duty to bring to the notice of the Government (I do not know whether they have been informed officially or unofficially about it) and of this House that the Turf Club have now introduced a third enclosure, and admission to that enclosure will be by tickets of Re. 1 each. So that, for the races in Bombay commencing from the 9th December, there will be three enclosures. The rates of admission to the first enclosure will be Rs. 5, to the second enclosure Rs. 2, and to the third enclosure Re. 1. Now, by the creation of a new enclosure, admission to which is so very cheap as the payment of a rupee, the Turf Club will carry away all the persons who gambled away their money in the bucket shops, which had sprung up like mushrooms in the different parts of the city, but which this House had the honour of putting a stop to by amending the Prevention of Gambling Act. The Turf Club will, therefore, make an enormous profit, and I cannot understand the argument of the Honourable the Finance Member that reducing the rate from 50 per cent. to 25 per cent. will help to increase the number of people going to the race-course, and therefore form the fat lamb to come under the operation of the Finance Member. I therefore submit that the Finance Member is absolutely wrong if he tells us that the gamblers will be reduced if we tax admission to the race-course to the extent of 50 per cent.

The other point which I wish to place before the House is this. In clause 3, the words in italics at the beginning are absolutely new, and never formed part of the bill as read for the first time, and from the words as used in this bill now, we can at once understand that the Government are going to take this 25 per

[Mr. Ibrahim S. Haji]

cent. according to the amendment or 50 per cent. as it is in the bill, in a consolidated form from the Turf Club, as would appear from the subsequent clauses of this bill, particularly clause 4 (2) (*a*), where it is stated " by a consolidated payment of a percentage, to be fixed by the Governor in Council ".

I understood the Honourable the Finance Member to suggest in the select committee that we should tax the race-course not by taxing every individual entering the race-course, but to take away in a consolidated form 50 per cent. of the amount got by the Turf Club by admission to the race-course. If that is so, I do not see the necessity of bringing this extra clause. If the Honourable Member suggests that 25 per cent. was included in the old bill which was published but not in an explicit manner, it is in the schedule published there as admission to places of entertainments ; public entertainments are defined in the definition clause. Still there is no necessity for the inclusion of such a clause, and the explanation given by the Honourable the Finance Member for including this clause is not correct. I therefore ask this House to consider not the question whether we are to tax individuals entering the race-course 25 per cent. or 50 per cent. but the question whether we could not get 50 per cent. or 25 per cent. as the House will decide, in a consolidated form from the Turf Club. Even if we stick to the original clause as in the report of the select committee, I do not think the Turf Club will suffer any loss, and it will be easier to get the amount in a consolidated form from the Turf Club. If my submission to the House is not correct, I hope the Honourable the Finance Member will challenge it. A large number of people will go to the second enclosure, people with ability to pay extra taxes, and the Turf Club will be able to realise sufficient money to pay us 50 per cent. and therefore I ask the House to reject the amendment and retain the old clause.

The Honourable the PRESIDENT : The Council will meet at 12 noon to-morrow, Wednesday the 6th December and sit up till quarter past three.

*Wednesday, the 6th December 1922.*

The Council reassembled at the Town Hall, Bombay, at 12 noon on Wednesday the 6th December 1922, the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt,. LL.D., presiding.

*Present :*

ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BEDREKAR, Khan Bahadur I. M.
BELL, Mr. R. D.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CADELL, Mr. P. R.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHITALE, Rao Bahadur G. K.
COCKE, Mr. H. G.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DABHOLKAR, Mr. V. A.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DRAKHAN, WADERO MAHOMED PANAH
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI
GANDHI, Mr. C. M.
GAYASUDDIN JAUDDIN, Mr.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GODBOLE, Dewan Bahadur K. R.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HAJI KHAMISO GUL MAHOMED, Mr.

HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HATCH, Mr. G. W.
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
HOOD, Mr. A. J. F.
JADHAV, Mr. B. V.
JENNINGS, Major General W. E.
KALE, Rao Bahadur R. R.
KASSIM, Mr. G. H.
LALBHAI AMBARAM, Mr.
LALJI NARANJI, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LORY, Mr. F. B. P.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MODI, Sardar Davar T. K.
MOHIDINKHAN, Khan Saheb HAJI HAZRATH KHAN
MOHOMED SALAHUDDIN K., Mr.
MOTIRAM, Rao Saheb RUPCHAND
MURPHY, Mr. S. J.
MUTALIK, Sardar V. N.
NELSON, Mr. F.
NILKANTH, Rao Bahadur R. M.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PARANJPYE, The Hon'ble Dr. R. P.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SETALVAD, The Hon'ble Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY.
SINDORE, Mr. H. N.
SURVE, Mr. A. N.
THAKOR of AMOD, Sardar NAHARSINGHJI

THOMAS, Mr. G. A.
TRIVEDI, Mr. G. B.
VICHARE, Rao Bahadur D. A.
WOODS, Mr. E. E.

## ENTERTAINMENTS DUTY BILL (BILL NO. XX OF 1922).

(Debate on clause 3 resumed).

The Honourable the PRESIDENT: Order, order.

An Honourable MEMBER: There is no quorum.

The Honourable the PRESIDENT (After a count taken): There is a quorum. Who said there is no quorum?

Question again proposed that in clause 3, sub-clause (1), leave out the words "50 per cent." and insert the words "25 per cent.".

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Sir, when we were discussing last night the amendment put forward by the Honourable the Finance Member, the Honourable the Finance Member said that the tax would be rather heavy on those who will visit the Turb Club, and consequently attendance will suffer and as a result revenue would fall short of the anticipated amount. He also said that the tax would be paid by the Turf Club itself and not by the members. If the managing board of the Turf Club thinks of paying the tax, we shall certainly thank those gentlemen for their kindness, and it will be more reason to raise the tax by 25 per cent. in addition to the 50 per cent. proposed to be paid by persons seeking admission. When we look to the average members we find that they are all rich and educated persons, and when they realise that the proceeds of this tax will go to educational purposes I am sure that they will not demur to pay the amount, and when they know that this tax will be utilised for the spread of primary education I am quite sure that the duty will be paid. Our intention is to tax the persons who attend the races, and not the Turf Club itself. On these grounds I oppose the amendment, and urge that the Council should pass the clause as it is.

Dr. K. E. DADACHANJI (Bombay City, South): Sir, I also am in favour of 50 per cent. increase. I was a member of the select committee and I remember the Government Members asking Mr. Haji whether as a race-goer he would support the tax, when increased to 50 per cent. and Mr. Haji agreed at once. This item was debated fully in the select committee. Now, what are the reasons for the Honourable the Finance Member for bringing forward this amendment. The intention of Government is said to be to realise a larger revenue. As I pointed out the cinema industry is in a falling condition, and even the Madon Theatres, Ltd., the largest company, did not pay any dividend last time. So, we are not likely to realise such a large amount from that source as to support free and compulsory education. The only body that enjoys a large income is in my mind the Turf Club. They give benevolent donations for all sorts of institutions. Free and compulsory education is also a benevolent work and they can pay 50 per cent. cheerfully. Sir, I oppose this amendment of the Honourable Mr. Lawrence.

Mr. KANJI DWARKADAS: Sir, I rise to oppose the amendment moved by the Honourable the Finance Member. His argument was that if we put a

[Mr. Kanji Dwarkadas]

50 per cent. duty many people who are generally race-goers will be prevented from going there and we shall lose revenue. But my point is that we are not asking the race-goers to pay a 50 per cent. duty when we put a nominal duty of 50 per cent. on the Rs. 5 admission fee that they have to give. It is a well-known fact, and a scandalous one too, that people who cannot ordinarily afford to travel in tramcars go to races in taxis and trains and they pay extra fares for these taxis and trains, and for the Poona races they even go by first class and second class specials. Then they have to take a tonga or taxi again from Poona railway station. So that, when a man goes to the races he does not merely pay the Rs. 5 admission fee : he pays as much as Rs. 20 or more. And if we are now asking him to pay Rs. 2½ more we are only taxing him to the extent of 10 per cent. and not more. Even if it happens that people are prevented from going to the races in such large numbers—even if that point be conceded—I do not think the Presidency will lose much. On the contrary, it will gain. It should be our definite goal that we should try to prevent our people from getting into bad habits like gambling. So, if this tax is to serve as a preventive I should rather welcome it, and I think Government will welcome it, because that will save the constructive energies of the people. I am not, like my honourable friend Rao Bahadur Chitale here, quite a Puritan and I do not mind a man having a little pleasant afternoon once or twice a month, but he need not go to all the eighteen or twenty race meetings that the Governor in Council allows under the terms of license. And so, Sir, I think my honourable friend's amendment ought to be thrown out.

There is one point I want to make clear with regard to what the honourable member for Surat (Mr. Gandhi) said. He said that the members of the select committee agreed to the taxation on the cinemas because the Government also promised to tax the race-course to the extent of 50 per cent. I do not think we had any bargain like that with the Government at all. Each point was judged on its own merits, and I think if there was any unanimity in the select committee on any point it was on this point, that the admission fees to race-courses be taxed 50 per cent.

Mr. P. R. CADELL : Mr. President, it is obvious from the speeches that have been made that a great number of the members of this assembly have an almost entire ignorance of racing. That is natural because they have had little opportunity of frequenting the race-course. Ignorance, in such circumstances, is in no way discreditable. But ignorance is never a thing to be proud of and is certainly not a reason for taking up a position of high moral superiority. I am myself in no way a racing man, but I do happen at the present moment to be a member of the committee of the Turf Club, and therefore I speak with a certain amount of knowledge and I hope without any undue amount of prejudice. Knowledge is necessary in this matter as in all others, because in the case of racing, as of everything else, perfect knowledge means perfect forgiveness if there is anything to forgive. My reason, Sir, for saying that the rate of 50 per cent. on admission to the race-course—because the House should remember that it is only a question of admission and not the question of betting on totalizator—would be unfair, is that, this being a tax on admission it ought to be as uniform as possible. If this House starts differentiating between the different classes of amusements and decided that one class of amusement should pay more and another should pay less, it will make itself ridiculous because no popular assembly is qualified to be a judge of the quality of amusements. If you want to charge more for admission to racing because you do

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not think it edifying, it would be equally sensible to have a varying rate for admission to cinemas and theatres according to the programme, and to say you ought to pay more for going to a musical comedy or a farce than for seeing an ancient Hindu drama or to a play of Shakespeare. The House will agree that that would be impossible. But as the question at present stands, it is only the question of admission into a place of amusement, and if you study the rates in the scale in the bill you find that in no case does the proposed scale reach 25 per cent. It varies from 16 to just under 25 per cent. The rate of 25 per cent. that is proposed in the amendment for admission to the race is therefore sufficient because it is in any case higher than the scale proposed for admission to other amusements.

Sir, there are only two reasons for putting on a higher rate on admission to the race-course; the first reason would be that racing is immoral and the second that only rich people indulge in it. We have heard one of the honourable members, the honourable member from Thana, say that he regretted that the honourable mover's proposal was lacking in moral tone and uplift. It seems to me, Sir, almost nauseating to find a member assuming a highly virtuous pose, and then seeking to make money out of vice. There is in Bombay a class of landlords who charge a high rate of rent on properties let for purposes of a very doubtful nature. They make no secret of it, but they do not pose as moralists and it is not regarded as the most reputable branch of the landlord's profession. I do not think this House should put itself on the same footing as these landlords by saying that a thing is vicious and therefore we shall make money out of it. If racing is immoral by all means stop it. But I do not think racing is necessarily immoral. It is perfectly true that a large number of people go there to bet, though that is far from being the only spot in Bombay where speculation takes place. But a great number of people go there for an afternoon's sport and enjoyable company; they suffer no more harm and they receive considerably more physical benefit than from going to a theatre or a cinema. For this reason, I think there is no fair or moral reason for putting on a higher rate for admission into race-courses. There is a further argument against doing so, and it is perhaps an argument that will appeal to the honourable members of this House. It is this, that it would not be wise, it would not be good business to impose this higher duty. If you do so, it will keep a certain amount of people away, and therefore there will or may be smaller amount invested in the totalizator. We are aware that Government hope to get from the Turf Club a larger amount in other ways than by a tax on admission. If you keep people from coming to the race-course, you will certainly reduce the receipts of the totalizator.

I take this opportunity of correcting a statement made by the honourable mover. I understood him to say that if a tax of 25 per cent. was put on admission to the race-course, the Turf Club would themselves pay the tax. This was naturally taken up by other honourable members who said that if the Turf Club is willing to pay 25 per cent. race-goers might well pay 25 per cent. themselves or the Turf Club might pay the whole 50 per cent. also if that rate is imposed. I am speaking with the authority of the present committee of the Turf Club that there is not the least intention on the part of the Turf Club to pay even 25 per cent. If this House imposed a tax on admission of 25 per cent. that will be paid entirely by the race-going public and no share of that will be borne by the Turf Club. But, Sir, it may be suggested that it would be rather a good thing if people were kept away from the Turf Club. That may or may

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not be so. It is not the case that the majority of the people who go to the race-course are rich people. And it is obvious that thousands of people who go there are far from wealthy and if they are deprived of this amusement, there might be no great harm so far as the race-course is concerned. But what would be the result ? One honourable member, I think the honourable member from Bombay, Mr. Haji, said that the legislation which has already been passed has had the effect of shutting down the bucket shops and stopping them altogether. I do not think any one who really knows about this shares Mr. Haji's confidence. I think bucket shops do exist and there will be a constant struggle against them. If you impose this tax of 50 per cent. you will be simply driving people to use these bucket shops, and this House by its recent legislation showed that it appreciated the common knowledge that betting in bucket shops is more harmful than betting on a race-course.

Mr. IBRAHIM S. HAJI : Would the honourable member give an example of the bucket shops still existing ?

Mr. P. R. CADELL : The honourable member, Mr. Haji, knows much more about bucket shops than I do.

Mr. KANJI DWARKADAS : If the honourable member will give me specific instance of a bucket shop still existing I will ask the Commissioner of Police about it.

Mr. P. R. CADELL : I would like to refer to one more point. The honourable member from Bombay, Mr. Haji, said that a third class enclosure has been made and therefore the Turf Club would stand more taxation. That third enclosure was only created to ease the pressure on the second enclosure and to allow the poorer people who crowd round the course to see the races if they want to. I would repeat, Sir, that there is neither moral justification nor fairness in putting a duty of 50 per cent. on admission to race-course, and that if it is put, it not only will affect the revenues of the Turf Club but will also affect the receipts which Government propose to devote to primary education.

The Honourable the PRESIDENT : This is a fiscal measure. Its scope is the taxation of entertainments as such and not the taxation of race-courses or betting on the ground of immorality. The moral question is not relevant.

Mr. S. K. BOLE (Bombay City, North) : Sir, as a member of the select committee I am really surprised to see the view taken up by the Honourable Member in charge of the bill. It will no doubt create an impression that Government instead of protecting the poor was going to protect the interests of the Turf Club. This club, I learn, is going to open another enclosure for admitting people at a low rate, that is, for drawing the poor people also in their net. I think it is necessary for Government to make it a condition of the Turf Club license that they should not be allowed to open any enclosure where admission will be for below Rs. 10. If they are allowed to open another enclosure, it will frustrate the object of the bill that was passed by this Council for closing the bucket shops. The race-course might be a place of recreation or amusement to a few, but it is a death trap to many ; it may be play or sport or physical exercise to a few, but it is certainly death to many. I have seen at the Mahalaxmi station, especially on the race-course, elderly people cursing the place and advising their children never to go there. Likewise it is the duty of Government to save poor people from ruin, and I think in

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that case 50 per cent. tax is quite justifiable. I am, however, afraid that in spite of this heavy tax people will rush to the race-course. The vice has so much increased and the temptation is so very great that whatever we may do, it will be difficult to prevent people from visiting the race-course. The Honourable Member in charge has said that if we levy a heavy tax, that will decrease the number of visitors to the race-course and the income of the Turf Club. So what I say is that people will go there whether the tax is heavy or not. There is the abkari tax before us. The heavier the tax in the Abkari Department, the higher the increase of revenue. So, in that way it will happen here also. Under these circumstances, I hope this House will not carry the amendment moved by the Honourable Member in charge of the bill.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Mr. President, I wish to give a few reasons why the tax is a good tax. To my mind, Sir, taking the figure which the Honourable the Finance Member has given, namely, Rs. 8,00,000 for 40 race meetings in all, it works out to Rs. 20,000 per meeting. Now, may I know if a meeting of a cinema or theatre brings such a huge sum at one shot as it were? If it does not, then it does not mean logical that the race-goers should be allowed to go lightly when they make such a huge amount for a single meeting. From what I have seen of a race, I am quite willing to admit that there is some sport in it and I did enjoy that sport. I had been to see a race on one occasion but I did not pay anything for it. While carefully watching the races at times I thought that, if I were to go again, the temptations were so many that it would not be possible to come out without betting.

To my mind, therefore, it does not look that if this tax is wanted, a 50 per cent. addition is taxing at a high rate, and I am sure this House will be in a mood not to let it go.

Mr. O. ROTHFELD: Mr. President, I am really astonished at the opposition which, on an apparently very harmless amendment to the bill as drafted by the select committee, has arisen in this House. Apart from the astonishment at the opposition I find it rather difficult to grasp what exactly the opponents intend. The point for consideration, as you, Sir, very rightly pointed out to this House, is a question of how best to raise funds, and the question, it appears to me, before this House is simply this—we have already accepted the principle of taxing the race-course—by which process, whether with a surcharge of 25 per cent. or with a surcharge of 50 per cent, we are likely to raise the greater sum of money for the taxes of this Presidency. That, and that only, is the question before this House. Opposition has been raised on two grounds by different people and by different members, and on one or two occasions by the same members. On the one ground it is alleged that by a tax of 50 per cent. you will raise more money and on the other ground it is alleged, as I say by the same members opposite, that by raising the tax to 50 per cent. you will be keeping persons away and therefore getting less money. I do not mind which way they argue but they must choose one thing or the other. They cannot have it both ways. In connection with the bill they must see which gives them the most money. I think probably half the opposition has been based on some misapprehension or some exaggeration of the actual state of things on the race-course. I have been an occasional visitor to the race-course for enjoyment, for a certain amount of sport and pleasure. There are

[Mr. O. Rothfeld]

some persons like a well-known owner whose reasons for going to the race-course are probably different. Of one owner I am creditably informed that he does not know the head from the tail of a horse except of the fact that one end bites and the other end kicks. Still he goes to the race-course. There are others still who, to be sure ladies, go to see other ladies' hats or clothes. If you are going to increase taxes too greatly you surely are going to stop such persons from going. Many people of that kind are willing enough to pay five rupees, but I am afraid they might not like to pay Rs. 7-8-0 in order to see hats. They might even go to church and see them for nothing. In this manner you would lose a considerable amount of money that would otherwise come in.

The question is purely one of how to get the most amount of money from the race-courses. I think, therefore, that the House will be well advised to accept the amendment of the Honourable the Finance Member who, after fully considering the question of how to raise the largest amount of revenue, has fixed upon the figure of 25 per cent. which he has mentioned in his amendment for the good of the country as a whole.

I would also like to point out that the honourable member for Thana seems to be under some misapprehension. He characterised the amendment as giving an encouragement to race-goers, to gamblers, by a reduction in the tax. May I point out to him and to the other members of this House who think with him that the Honourable the Finance Member is not seeking any reduction of any tax at all. There is no tax of this kind existing. The tax has been proposed for the first time. There is no question of encouraging racing when he is proposing a new tax which involves an additional payment by race-goers.

Dr. S. S. BATLIWALA (Bombay City, North): Mr. President, I am not satisfied with the speeches made by previous speakers nor am I in agreement with the views that have been expressed by the champions of cinemas, theatres and the Turf Club, nor am I in agreement with the views expressed by the Honourable the Finance Member. What we have to consider is whether by levying a tax of 50 per cent. or by reducing it to 25 per cent. as suggested by the the Honourable the Finance Member, our income will be likely to increase or decrease, or in other words, whether we shall get more income or less income. I would ask the honourable member who spoke last one question: What is the proportion of people that go to races for amusement only, and what is the proportion of those who go there for betting purposes? I venture to say that of the number of persons that go to races, not more than 10 per cent. at the most go there for the sake of pleasure. I am sure it will be accepted without the slightest doubt by the majority of the non-official honourable members that a large number go to the race-course for the purpose of betting and making money (An Honourable Member: No, no. For losing money). It is a fact that a few only make money and the large majority of them lose money and bring ruin, misery and destruction to their families. They neglect their homes, they neglect their families, they ruin themselves, they ruin their reputation and borrow money for the sake of going to races. If the proportion of persons going to races for mere amusement and pleasure is very small, and if the largest number went there to gamble, then I say, whether the tax levied is 20, 50 or 75 per cent. those who are addicted to go to races will never be deterred by the tax, and nothing will prevent them from going to races. If that is so, then the fears expressed by the Honourable the Finance Member

[Dr. S. S. Batliwala]
that, if the tax is raised to 50 per cent. our income derived therefrom will be lessened, is groundless.

The Honourable the Finance Member gave us to understand in his speech that if we levied 25 per cent. tax then the Turf Club do not propose to charge 25 per cent. more on the admission tickets with a view to lighten the burden of the tax on the race-going public, and thus not reduce the income from the admission tickets. But I am afraid, Sir, that the bottom of that argument has been knocked off by the honourable member from the Port Trust who said that he is authorised to state by the Turf Club that they have no such intention as the Honourable the Finance Member has given expression to. The Honourable the Finance Member will thus see that he cannot reconcile his argument with that advanced by the honourable member for the Port Trust. The select committee has considered the whole question in all its bearings and has made its unanimous recommendation that a tax of 50 per cent. should be levied. The Honourable the Finance Member was not only a member of that select committee but the chairman of that committee and has signed the report of the same. No Government Member has up till now given any satisfactory reason for proposing the amendment, but an explanation is simply given that Government have thought it over again and have come to that conclusion. I am afraid, Sir, there is a lurking suspicion in the minds of several members of this Council that Government have been influenced by the pressure from the members of the Turf Club. I hope I am wrong but I must say that this suspicion is based on the action of the Government, who brought forward an amendment for the levy of 25 per cent. tax in favour of the Turf Club after unanimously agreeing to levy 50 per cent. tax in the select committee. Sir, if we charge 50 per cent. on the admission tickets we are sure to get a certain amount of money. As against that, we are told that His Excellency the Governor in Council is going to arrange with the Turf Club to give us a certain proportion of their income from the totalizator, and therefore, we must not do anything that will possibly reduce the income of the Turf Club. You will remember, Sir, that this arrangement which His Excellency the Governor in Council will enter into with the Turf Club will only be communicated to us and we shall have no voice in the matter, nor shall we have an opportunity to criticise the arrangement or suggest enhancement or reduction thereof. I, therefore, think, Sir, that this Council ought not to depend on an income based on such hypothetical bases, but be sure, by passing 50 per cent. tax on admission tickets of a certain income.

I hope, Sir, it is clear to this House from what I have argued that the Honourable the Finance Member's argument that by our levying 50 per cent. tax the Turf Club will suffer financially and we will receive a lesser sum from the Club is not sound. I verily believe, Sir, that those who go to races, more than 90 per cent. of them, go there for betting and not for amusement only and none of these will be deterred from going to races on account of the extra tax that is proposed to be levied on the admission tickets. Therefore, there will be no chance of our income being reduced. From this point of view I beg to oppose the amendment.

Mr. J. ADDYMAN (Bombay City): Mr. President, I rise to support the amendment before the House for several reasons. Firstly, I am not satisfied that the select committee wanted the 50 per cent. tax (at this point the honourable member was inaudible). I would ask that 25 per cent. be

[Mr. J. Addyman]

recommended and the honourable member who (at this point the honourable member was inaudible) the speech which he made was with the object of reducing the number of race-goers. Now, I stand here not as a supporter of the Turf Club. On the only occasion when I went to the race course, I came away a sad and wise man. Nevertheless, horse-racing is an established fact in this country, in almost every country in the world, and no amount of taxation will stop it. I do not wish to support the recommendation of the select committee, and that is because, I believe (at this point the honourable member was inaudible).

I take this opportunity of congratulating the Honourable the Finance Member in introducing this amendment in this House in the interest of the finances of the Presidency, because I feel that it is better to estimate for Rs. 2 lakhs and obtain Rs. 2 lakhs than to estimate an income of Rs. 4 lakhs and obtain Rs. 1 lakh. I do not see any reason why this form of amusement should be taxed higher than the cinemas and theatres. I support the amendment for 25 per cent. tax. If we find in a year or two that it can be further increased by another 25 per cent., we can do it. I appeal to the House to support this impartial amendment and to vote in favour of this amendment, and to reject the proposal of the select committee, which has been shown to be (at this point the honourable member was inaudible).

Mr. IBRAHIM S. HAJI: Sir, I move for a closure.

The Honourable the PRESIDENT: I accept the closure as the same arguments are being repeated.

The Honourable Mr. H. S. LAWRENCE: Mr. President, I should like to begin by explaining away a certain misunderstanding on the part of certain honourable members as to how this figure of 25 per cent. came to be placed before this House. In the bill, as it was placed before this House at the first reading in September, no particular duty was assessed on the race-course. It was at that time proposed that the race-courses should come in on exactly the same level as cinemas and theatres. The House will no doubt remember that at that time it was proposed that tickets from Rs. 4 to Rs. 9 were to be taxed to the extent of 12 annas only. On tickets exceeding Rs. 10 it was 10 per cent. Now, Sir, after that was placed before this House, we thought that it was reasonable to put a higher rate on the race-goers than this 10 per cent. In that connection we also took into consideration what had been done in Calcutta, and there the tax was 25 per cent. Therefore, Sir, we redrafted that part of the bill and placed it before the select committee in the form in which it was printed in the *Bombay Government Gazette* on November the 6th, and honourable members will find in that copy of this bill that this duty on admission to the race courses was placed at 25 per cent. Subsequently in the discussion in the select committee, it was proposed to raise the figure to 50 per cent. One honourable member—I do not think it is in order to refer to the discussion in the select committee.

The Honourable the PRESIDENT: The Honourable member may reproduce the arguments which were urged before the select committee; but I do not think it is relevant to say what took place in the select committee, unless there is some important statement necessarily bearing on the question under consideration.

The Honourable Mr. H. S. LAWRENCE: Just to correct the impression created in the minds of the honourable members, I wish to place properly before

[Mr. H. S. Lawrence]

the House the standpoint taken by the select committee. One honourable member stated that the report was signed on that definite understanding. Sir, I do not admit for a moment that the report was signed on the condition that the rate should be increased to 50 per cent. The signature was obtained on the whole report, and no emphasis was placed on this particular point whether it should be 25 per cent. or 50 per cent.

Now, Sir, surely it is inequitable to treat the race-course differently from other entertainments. We have gone so far as to tax the race-course to the extent of 25 per cent. while the average rate on cinemas is only 20 per cent. No such differentiation is made in any other form of taxation. Whether it is fair to raise the tax on race-course to 50 per cent. is a matter for the judgment of this House. It is easy to raise the moral standard so high in our way as to drive people to worse vices in other ways. There are people who lose money on the race-course and others who lose money gambling in other places. So, as regards the moral aspect, it can be safely left to the Home Department; that is a matter which can be dealt with under the terms of the license which will be issued. This is purely a fiscal question and it must be looked at from a business point of view. If the Government get a higher amount of revenue it will be for the benefit of the people, for the spread of primary education. It is from that point of view, that on behalf of Government I have recommended to the House to accept the amendment. That is the whole question before the House.

Question put that the figure "50" do stand part of the clause.

House divided: Ayes, 34; Noes, 33. Amendment negatived.

*Division No. I (a).*

**Ayes**

ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BOLE, Mr. S. K.
CHITALE, Rao Bahadur G. K.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI
FERNANDES, Major C.
GODBOLE, Dewan Bahadur K. R.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
JADHAV, Mr. B. V.
KALE, Rao Bahadur R. R.
LALJI NARANJI, Mr.
MODI, Sardar Davar T. K.
MOHOMED SALAHUDDIN K., Mr.
MOTIRAM, Rao Saheb RUPCHAND
MUTALIK, Sardar V. N.
NILKANTH, Rao Bahadur R. M.
PAHALAJANI, Mr. B. G.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
SAHERWALA, Khan Saheb I. A.
SINDORE, Mr. H. N.
SURVE, Mr. A. N.
TRIVEDI, Mr. G. B.

*Tellers for the Ayes:* MR. KANJI DWARKADAS and MR. IBRAHIM S. HAJI.

**Noes.**

ADDYMAN, Mr. J.
BELL, Mr. R. D.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
CADELL, Mr. P. R.
CREERAR, Mr. J.
DABHOLKAR, Mr. VASANTRAO ANANDRAO
DALAL, Sardar Khan Bahadur ADARJI M.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
HATCH, Mr. G. W.
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
HOOD, Mr. A. J. F.
JENNINGS, Major General W. E.
LALBHAI AMBARAM, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LOBY, Mr. F. B. P.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MURPHY, Mr. S. J.
NELSON, Mr. F.
OJHA, Mr. DIPCHAND T.

Noes.

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| PARANJPYE, The Hon'ble Dr. R. P. | SETALVAD, The Hon'ble Sir CHIMANLAL |
| PRADHAN, Mr. M. W. | SHIRRAS, Mr. G. FINDLAY |
| PROBS, Mr. E. M. | THAKOR of AHMOD, Sardar NAHARSINGJI |
| RAHIMTOOLA, The Hon'ble Sir IBRAHIM | THOMAS, Mr. G. A. |
| ROTHFELD, Mr. O. | WOODS, Mr. E. E. |

*Tellers for the Noes :* Mr. P. R. CADELL and MR. O. ROTHFELD.

The Honourable the PRESIDENT : The series of amendments proposed by the Honourable the Finance Member falls to the ground.

I have ruled out of order the amendment proposed by the honourable member Rao Bahadur Kale, on his motion to refer this bill back to the select committee. But I have seen since that the corresponding Bengal Act contains this provision. I will hear what the Honourable the Finance Member has to say on the point of order which he raised yesterday.

The Honourable Mr. H. S. LAWRENCE : Mr. President, the Bengal Act, I submit, is definitely an Act " to make an addition to the public revenue of Bengal and for that purpose to impose a tax on entertainments and other amusements and *on certain forms of betting.*" We are proposing only a bill " to impose a duty in respect of admission to theatres, cinemas and other places of public entertainment." They bring in definitely " certain forms of betting."

The Honourable the PRESIDENT : Well, what has the honourable Rao Bahadur got to say to that ?

Rao Bahadur R. R. KALE : The title of the present Act is the " Bombay Entertainments Duty Act," and the title of the Bengal Act is " The Bengal Amusements Tax Act ". You will see that the Act is called the Entertainments Duty Act and it is said....

The Honourable the PRESIDENT : The title clause of our bill is " This Act may be called the Bombay Entertainments Duty Act ". The title is not the only thing to be looked to. The scope of the bill should be determined, with due regard to the title, the provisions and purpose of the bill, and not merely the title.

Rao Bahadur R. R. KALE : May I be allowed to say, Sir, what passed at the first reading of the bill ?

The Honourable the PRESIDENT : I am sorry to have to interrupt. With regard to the last division the Secretary tells me that the counting is 33 for the Ayes and 33 for the Noes. The tellers are responsible for the mistake and they have reported the error to me. I will now cut the Gordian knot by saying that if I had to vote on the subject I should have voted with the Ayes. (Applause.)

Mr. O. ROTHFELD : May I rise to submit, Sir, that the procedure adopted at present is that tellers of the same side sit together ? Therefore checking is done by the tellers of the same side. I submit that tellers of opposite sides should sit together and do the counting as in the House of Commons.

The Honourable the PRESIDENT : I think that might be done here too. Let us now proceed with the question before the House.

Rao Bahadur R. R. KALE : As regards what happened at the first reading of this bill so far as the scope of the bill is concerned, I will refer to the speech

[Rao Bahadur R. R. Kale]

made by the honourable member from Kaira who was going to say there was a proposal for leave to introduce a bill for amending the Race-courses Licensing Act. Then you remarked that that had nothing to do with the bill. He then proceeded :

"I was going to say that it would be better to have this bill postponed till the fate of that bill is decided."

You, Sir, then said that he could not refer to an amending legislation by anticipation. Discussion then went on, and you put the question to the Honourable the Finance Member "Is horse-racing considered to be sports ?" and he said "Yes, it is." The point was that I took it as if it were then a matter of detail for the select committee.

The Honourable the PRESIDENT : There is a substantial difference between the Bengal Act and this bill. The Bengal Act does in terms apply to certain forms of betting so as to bring them within its scope, whereas here it is not so. I rule this amendent out of order.

The Honourable Mr. M. H. W. HAYWARD : Sir, I should like to refer to the question of the vote once more. I understand that the record will go down as though 34 voted for a 50 per cent. tax and 33 against 50 per cent. tax, whereas the exact facts, as ascertained by actual count, are not so. The facts are that 33 only were in favour of 50 per cent. and 33 in favour of 25 per cent. It seems to me that that is a most important fact which ought to be put down on the record, because that fact has to be taken into consideration when it has to be considered what action has to be taken upon that voting by Government. So, I request the Chair to decide : Is the record to be that 33 voted on each side and the President gave his casting vote for the 50 per cent. tax, or is it to be recorded that there was an absolute majority of 34 for 50 per cent. against 33 for 25 per cent.

The Honourable the PRESIDENT : What does the Home Member propose ?

The Honourable Mr. M. H. W. HAYWARD : I simply ask that the exact facts should be on the records of the Council. The exact facts are that there was no majority for 50 per cent. but the votes were equal. Therefore, the question is what should be done. I would suggest, Sir, in that case there ought to be a fresh division as the division has been falsified by a mistake of the tellers for the Ayes. I submit, Sir, therefore, that there ought to be a fresh division and a fresh count in order to make the matter quite clear.

Mr. KANJI DWARKADAS : May I submit, Sir, as one of the tellers that there has been a mistake in counting ? I have now again gone into the figures and checked them and I say that there is a mistake which my honourable friend and myself have made in the counting. But, Sir, since you have now said that your casting vote goes for the Ayes, I think there cannot be any further discussion on this point. I am indeed very sorry that a mistake has occurred in counting.

The Honourable Mr. M. H. W. HAYWARD : I submit, Sir, that there has been no casting vote and I understand that you simply said hypothetically that, if such and such a thing had occurred, the President would have done so and so. I submit that this is a most important matter and the President ought to decide whether or not he is going to give his casting vote in favour of the subject, whether he is going to vote for 50 per cent. or for 25 per cent.

The Honourable the PRESIDENT: The question is whether we can go back on what I have declared to be the result. The tellers will please come to the table and tell me if they all agree there has been a mistake in counting. (At this stage all the four tellers, Messrs. Cadell, Kanji Dwarkadas, Haji and Rothfeld, went to the President's table and explained that there was a mistake in counting.)

The mistake has only been in the counting, not in the voting, and that mistake has been brought to my notice by all the four tellers. Then we must proceed upon the basis that there is an equality of votes, if the result already declared is to be revised.

The Honourable Mr. M. H. W. HAYWARD: I submit, Sir, that that is correct, and it is now for the President to decide whether he should not protect the subject and vote against the higher figure.

(Rao Saheb D. P. Desai made an observation which was inaudible.)

The Honourable Mr. M. H. W. HAYWARD: I should like to raise one further point for consideration, Sir, whether it is permissible to this House to raise the taxation above the figure which has been proposed by Government, because the Act lays down that all taxes are to be recommended by Government.

The Honourable the PRESIDENT: The proposal for 50 per cent., admittedly came from Government in this case.

The Honourable Mr. M. H. W. HAYWARD: I submit, Sir, that the proposal of Government is for a tax of 25 per cent.

The Honourable the PRESIDENT: The proposal of Government is 50 per cent.

The Honourable Mr. M. H. W. HAYWARD: No, Sir. It is 25 per cent.

The Honourable the PRESIDENT: But the Honourable the Finance Member said otherwise in his reply on this and stated how 50 per cent. came to be inserted at the instance of Government in the select committee.

The Honourable Mr. M. H. W. HAYWARD: That is as a member of the select committee, not as a member of the Government. Government decided that it should be 25 per cent.

The Honourable the PRESIDENT: The Government Member was there on the select committee as chairman, he acquiesced in the report, and nothing was brought to my notice during or before the debate and before I put the question to show that 50 per cent. had been inserted without the Governor's recommendation.

The Honourable Mr. M. H. W. HAYWARD: I submit, Sir, that the presumption is rebuttable as to the chairman having been authorised as to 50 per cent. by the Government.

Mr. P. R. CADELL: May I suggest, Sir, that a fresh vote would be desirable, if possible? I think that you yourself are now placed in a very invidious position in having to give a casting vote.

Mr. IBRAHIM S. HAJI (Bombay City): Under the Standing Orders there is no provision.

The Honourable the PRESIDENT: There is a provision that where the Standing Orders are silent the discretion is given to the President.

The Honourable Mr. M. H. W. HAYWARD: Standing Order XII, 7.

The Honourable the PRESIDENT: Under that, I think I will allow a fresh division.

Mr. NAOROJI M. DUMASIA: In that case will the honourable members who were not present at the first division be allowed to vote now?

The Honourable the PRESIDENT: Yes; everybody will be allowed to vote.

Mr. IBRAHIM S. HAJI: Then, what about the members who voted with us but may have left now?

The Honourable the PRESIDENT: That cannot be helped.

A fresh division was then taken: Ayes, 36; Noes, 32. Amendment negatived.

*Division No. I (b).*

**Ayes.**

ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BOLE, Mr. S. K.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHITALE, Rao Bahadur G. K.
DADACHANJI, Dr. K. E.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DURHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI
FERNANDES, Major C.
GANDHI, Mr. C. M.
GODBOLE, Dewan Bahadur K. R.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
JADHAV, Mr. B. V.
KALE, Rao Bahadur R. R.
LALJI NARANJI, Mr.
MODI, Sardar Davar T. K.
MOTIRAM, Rao Saheb RUPCHAND
MUTALIK, Sardar V. N.
NILKANTH, Rao Bahadur R. M.
PAHALAJANI, Mr. B. G.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
SAHEBWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SINDORE, Mr. H. N.
SURVE, Mr. A. N.
TRIVEDI, Mr. G. B.

*Tellers for the Ayes:* MR. IBRAHIM S. HAJI and MR. KANJI DWARKADAS.

**Noes.**

ADDYMAN, Mr. J.
BELL, Mr. R. D.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
CADELL, Mr. P. R.
CREAR, Mr. J.
DABHOLKAR, Mr. VASANTRAO ANANDRAO
DALAL, Sardar Khan Bahadur ADARJI M.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
HATCH, Mr. G. W.
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
HOOD, Mr. A. J. F.
JENNINGS, Major General W. E.
LALBHAI AMBARAM, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LORY, Mr. F. B. P.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MURPHY, Mr. S. J.
NELSON, Mr. F.
PARANJPYE, The Hon'ble Dr. R. P.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SETALVAD, The Hon'ble Sir CHIMANLAL
SHIBRAS, Mr. C. FINDLAY.
THAKOR OF AMOD, Sardar NAHARSINGHJI
THOMAS, Mr. G. A.
WOODS, Mr. E. E.

*Tellers for the Noes:* Mr. P. R. CADELL and Mr. O. ROTHFELD.

The Honourable the PRESIDENT: I should state to the Council for future guidance that if the tellers differ as to the number of votes on either side or if a mistake regarding the numbers be discovered, if the attention of the Chair is called soon after the erroneous declaration from the Chair a second division must take place. But if it is brought to the notice of the Chair after some time has passed after the erroneous declaration, the declaration stands but the numbers will be ordered to be corrected in the Journal and proceedings of the Council.

[The President]

I think I would again suggest to the honourable members that it would be a good thing if somebody proposed an amendment of the Standing Orders on the question of division so as to make them more explicit and not put the Chair in any invidious position.

In the House of Commons when once the result of a division has been declared by the Speaker, it is out of his hands. He cannot change it except that, if subsequently his attention is drawn to an error, a correction is made in the Journal. Here discretion is given to the President in matters on which the Rules and Standing Orders are silent.

Mr. IBRAHIM S. HAJI (Bombay City): Mr. President, the amendment which I wish to move is as follows:—

"In clause 3 (1), line 8 leave out the words 'exceeds six annas but does not exceed twelve annas.....One anna'."

I beg to move this amendment with the view of removing a great hardship on the poorer people who are resorting to the cinemas and theatres and take up seats in the lower classes. In the select committee we examined witnesses from the Cinema and Theatres, Association, and they deposed before us that a very large number of the poorer people resort to the 6, 8, and 12 anna classes, and comparatively a very smaller proportion occupy seats in the higher classes. If the opinion of this House is that the poorer people must have some sort of amusement after sunset and also on holidays, and if the cinemas and theatres are the places which they can resort to, then I think it is the duty of this House to come to their assistance by not taxing the lower classes of tickets. If this House also accepts the view that the poorer people will not be worse off by visiting theatres and cinemas, that the owners of cinemas and theatres and dramatic companies make little profit, that it is not the intention of the House to ruin the cinemas and theatres, and that they must have some margin of profit, if not large profits as has been alleged by some members of the select committee, then I submit to this House that the only way of achieving their object is to allow people resorting to the lower classes to do so without the payment of any extra tax in the form of the duty which is proposed to be imposed upon them. The object of my amendment is to exempt those classes of people which pay 6 annas to 12 annas as admission fee from the payment of this tax. I want that only such persons who are able to pay an admission fee of 12 annas should pay this tax. In other words, what I propose will be absolutely equitable and just. The learned economic expert and adviser of the Bombay Government said the other day that the proposals of Government were just and equitable and that it is a good tax because the poor people are able to pay it. I am sorry to say I cannot accept the view which he has put forward. With what knowledge I possess, of which I am proud, I cannot accept for a moment the view that if these poor people are taxed, it will be equitable. If we exempt such poor people from paying this tax, then we shall be introducing the sound principle that we shall tax according to the ability of the payers and not the number occupying seats in a particular class, and I should think that it is a sound principle to follow when legislating for any fresh taxation that the tax should fall upon those who are able to pay it. I submit that those persons who occupy seats the charges for which are 12 annas and above are the people who will be fit and willing to pay this additional tax. If that is acceded to by the House, I think the House will do great justice to the poorer and lower middle classes who generally occupy seats from 6 annas to 12 annas.

Mr. G. B. TRIVEDI (Thana District): Mr. President, I support the amendment moved by my friend Mr. Haji. I would merely state that I do feel that the imposition of the tax on payments of 6 to 12 annas would be doing a great injustice. On the admission of the select committee, this industry is in a depressed condition, and will still further suffer if we do not exempt it partly at least from this tax. I am not pleading for complete exemption, but only for a part. Secondly, I feel on behalf of the poor. I am as much interested in getting more revenue as my honourable friend from Ahmednagar and the Honourable Minister of Education. I myself hardly ever go to cinemas, but we are not here to see things from our individual point of view. We are here as representatives of the people who will be affected by this tax. It is not enough to see whether I shall be affected and my purse will be affected, but it is our duty to see whether it is equitable or not. Now, it can be said that poor people do spend an anna or two in *pan supari*. These poor people are working the whole day from morning till evening in the mills, and if they have an off-day or a Sunday, they go to cinemas. It is only on Sundays that the cinemas get good houses; on other days there are empty benches. If these poor people on one day out of the week go to cinemas and have some sort of recreation, would you still tax them? If a man spends 1 or 2 annas in *pan supari*, is that any justification for saying that he should pay more for admission to a cinema or theatre? In these days, there are so many taxes which the poor man has to pay. If they live in the suburbs, they have to pay for the season ticket to go to their places of employment, and this has been increased by 25 per cent. In these days, there are so many odd additions to his expenses; and are you going to tax the poor people who will not be in a position to pay the tax?

Then, Sir, it has been said that cinemas spoil the people who resort to them to a certain extent. I do admit that it is so in some cases. But then, just look at the other side. The cinemas which show films representing the deeds of robbers and thieves are boycotted, they are not encouraged. On the other hand, I must say crowds of people go to cinemas when there is a Hindu or *Swadeshi* film exhibited. Whenever there is a *puranic* story, people go in large numbers; if there is some serial from Europe there is no crowd. Is it not from an Indian point of view better to encourage poor people to go to cinemas and see Hindu *puranic* films? It is from that point of view that I say that cinemas are doing good in this direction. I am as much interested in the spread of primary education as the honourable member himself. But what I feel is that we have no right to tax poor people, as it will be an additional burden imposed on them. Therefore, I strongly support the amendment.

Mr. A. P. CHAUGULE (Belgaum District): Mr. President, I rise to oppose the motion. In the first place, the argument which has been advanced by the honourable member who has preceded me appears to me to be extremely fallacious. The argument comes to this. A citizen does invariably attend a show every Sunday and that too from week to week and month to month. Obviously this is incorrect. Cannot an ordinary citizen pay 4 annas a month? I do not think it is hard upon a man who seeks the luxury of going to a cinema to pay this small amount. It is contended by the honourable member for Thana that the shows display *puranic* stories and as such it would be unwise to tax the six to twelve annas ticket. For aught I know there is only a cinema or two that sometimes exhibit such shows and to exclude these would mean making an unwise distinction. It is said that the cinema industry is depressed. I submit I cannot accept this. Opinion on this point is divided. It would be

[Mr. A. P. Chaugule]
after all extremely unwise to do away with a revenue that we are likely to get from this source.

Dr. S. S. BATLIWALA (Bombay City, North): I am not, Sir, in agreement with the views expressed by the mover of the amendment. Much has been made in this Council, whenever any taxation proposal came in, that the poor will suffer. I can very well understand that, if the poor people are deprived of the necessaries of life, if they are deprived of their housing accommodation or if they are deprived of their food materials, they will suffer. But I cannot understand how a poor man would suffer if he is asked to pay one anna for the amusement that he gets.

When I read the minutes of the select committee, I could understand that the select committee was convinced of the case made out by the cinema proprietors of the hardship they would have to undergo and the hardship that poor people might have to suffer, and therefore they came to a compromise between 4 annas and 12 annas. I for one approve of that arrangement. But I cannot see my way to support the amendment, and therefore I oppose it.

The Honourable Mr. H. S. LAWRENCE: Sir, the proposal of the mover of the amendment is to exempt all seats including those which cost twelve annas; and not as some honourable members believe only seats *below* twelve annas.

I have here the figures of admission to the cinemas. If you exempt all tickets including eight annas, you will exempt no less than 18 lakhs, and if you exempt all tickets up to 12 annas, as my honourable friend proposes, you extend the exemption to another 12 lakhs. Altogether the result of the honourable member's proposal here will be to exempt 30 lakhs of people out of the fifty lakhs of cinema-goers. It may be a very reasonable proposal for those people who think that people go to cinemas for education. But from the financial point of view the result will be very serious. We cannot seriously contemplate raising the revenue for primary education if you give exemptions on such an enormous scale. I think, Sir, it is a matter for this House to consider. These people have had their wages raised to such an extent that this payment for recreation is not and cannot be a very serious tax. That is a point that my honourable friends will have to bear in mind.

Question put

**that in clause 3, sub-clause (1), line 8, the words "exceeds six annas but does not exceed twelve annas.....One anna" which are proposed to be left out, do stand part of the clause,**

and agreed to.

The Honourable the PRESIDENT: Before I proceed I want to draw the attention of the House to the question raised by the Honourable the Home Member a little while ago on the question of the right of the House to propose 50 per cent. as against the Government proposal for only 25 per cent. He said that this House has no right to augment the tax. I ruled that there was nothing in that objection. I desire now to make that point quite clear. At that moment I could not put my finger on the authorities. It may be that the question may arise again either in connection with this or any other bill.

The principle that the sanction of the Crown must be given to every grant of money drawn from the public revenue, applies equally to the taxation levied to provide that revenue. No motion can therefore be made either to provide that revenue, or to impose a tax, without the recommendation of the Governor in that behalf: Section 80C of the Government of India Act. Nor can the amount of a tax or charge proposed on behalf of the Crown with that

[The President]
recommendation be augmented without further recommendation as to the increase by the Governor. Section 80C of the Government of India Act embodies in substance the rule of the House of Commons as was stated by the Secretary of State for India in that House during the debate on the Act when it was a bill. The rule in that House is : " In committee we can't go any further than the authority which is given on the recommendation of the Crown. It is one of the protections of the taxpayers that money matters must be regulated in this way." (Chairman's ruling : Parliamentary Debates : House of Commons : 5th series : Vol. 120, columns 519-520.) Now, when a Government bill, after it has been read a first time, is sent by the Council to a select committee, the Government Member in charge of the bill is the committee's chairman ; and if he either proposed or without protest acquiesced in the 50 per cent. increase, the presumption is that the recommendation of the Governor was obtained. That is the position.

The Honourable Mr. M. H. W. HAYWARD : May I say, Sir, that the presumption may be rebutted if the Member in charge of the select committee had not the authority of the Governor ?

The Honourable the PRESIDENT : Just so, but it must be rebutted in proper time, before or during a debate on it, not after the debate, and the Chair had put the question and it has gone to a division. The Honourable the Home Member will allow me to say that when the select committee's report was presented on this bill, the Honourable the Finance Member either then or during the debate did not inform me that there is no recommendation from the Crown for the 50 per cent.

The Honourable Mr. M. H. W. HAYWARD : I hope that omission can be rectified ?

The Honourable the PRESIDENT : There must be a limit of time somewhere for such rectification. I have ruled several times before now that no financial proposals, either in a bill or in a motion, can be initiated without a recommendation from His Excellency the Governor. When a Government Member or a Minister makes a proposal, the presumption is that the recommendation of the Government has been obtained, until it is brought to my notice somehow on reliable authority on which alone I can act, that the Minister or the Government Member was acting without such recommendation.

The Honourable the Finance Member's amendment is :

**That in clause 3, sub-clause (1), line 8 delete the word 'six' and insert instead the word 'four', delete the word 'twelve' and insert instead the word 'eight', and in line 9 delete the word 'twelve' and insert instead the word 'eight'.**

Mr. C. M. GANDHI : I think, Sir, having voted in favour of all these items, all the amendments standing in the name of the Honourable the Finance Member fall to the ground.

The Honourable the PRESIDENT : Therefore it is that if there are any subsequent amendments I put 'let the words proposed to be left out do stand part of the caluse'. The Honourable the Finance Member's amendment is to leave out 'six' and 'twelve' and insert instead 'four' and 'eight'. Now, the House has decided that the item should stand part of the clause.

The Honourable Mr. H. S. LAWRENCE : I submit, Sir, that the House decided only on the amendment to leave out the words 'six' and 'twelve'.

The Honourable the PRESIDENT : The amendment was to leave out the whole item "exceeds six annas but does not exceed twelve annas—One anna'

[The President]

Where there are two amendments one of which is to leave out and the other to insert, the amendment to leave out is put first. Now the House has decided that these words "exceeds six annas but does not exceed twelve annas—One anna" should stand part of the clause.

The Honourable Mr. M. H. W. HAYWARD : I submit, Sir, the House has not discussed the question at all. This question has not been voted upon.

The Honourable the PRESIDENT : If the House has not discussed the question, I am not concerned with the reason. The Honourable the Finance Member might have said that there is an amendment of his by which he wanted to propose a reduction.

The Honourable Mr. M. H. W. HAYWARD : I submit, Sir, that the order in which the amendments are put down is misleading, because Mr. Haji's amendment is first and that of the Honourable Mr. Lawrence is second. Therefore the Honourable Mr. Lawrence presumed that he would have the right to move it.

The Honourable the PRESIDENT : I select the proposed amendments according to the well established rule in the House of Commons. I put first the amendment which proposes to leave out all the words of a clause, and if it is lost, take the amendment which proposes to leave out not all but only some words to insert instead other words.

The Honourable Mr. H. S. LAWRENCE : Am I to understand, Sir, that the second part of my amendment also falls to the ground ? Do you rule out both portions of my amendment ?

The Honourable the PRESIDENT : I think I should. The House has decided that the words " exceeds six annas but does not exceed twelve annas .....One anna" do stand part of the bill, and we cannot perhaps go back on that.

The Honourable Mr. C. V. MEHTA : Sir, I want to know whether the House can decide anything excepting the amendment of which notice has been given. The amendment proposed by Mr. Haji was to remove the words "exceeds six annas but does not exceed twelve annas.....one anna". The House has decided upon a thing which was not before the House.

The Honourable the PRESIDENT : I put the question that the words proposed to be left out do stand part of the clause. The House decided that they stand part of the clause. The Standing Order distinctly says that once the House has decided no new question can be put.

The Honourable Dr. R. P. PARANJPYE : May I point out that that vote refers only to that part of the amendment ?

The Honourable the PRESIDENT : The Honourable Minister is, I am afraid, wrong.

The Honourable Mr. M. H. W. HAYWARD : I think, Sir, I ought to invite your attention to one point. There is a part of the Honourable Mr. Lawrence's amendment which refers to the clause which comes next and which has not yet been submitted at all to the House.

The Honourable Mr. H. S. LAWRENCE : Do I understand that you permit me to move my amendment that in place of the words " exceeds twelve annas but does not exceed one rupee.....two annas " the words " exceeds eight annas but does not exceed one rupee.....Two annas " should be inserted ? I hope you permit me to do that, Sir.

Mr. C. M. GANDHI : The first part of the amendment says "exceeds four annas but does not exceed eight annas.....one anna." The other amendment proposed is "exceeds eight annas but does not exceed one rupee..... Two annas." So the question is whether over eight annas we shall be entitled to tax two annas.

The Honourable Mr. H. S. LAWRENCE : If you permit me to move my amendment to substitute "eight" for "twelve" there will be an inconsistency with the previous clause.

The Honourable the PRESIDENT : Therefore, that will raise some difficulty.

The Honourable Mr. H. S. LAWRENCE : I submit the difficulty for your consideration and solution, Sir.

The Honourable the PRESIDENT : If there is any solution, and if I find that it is in order I will allow it.

Mr. C. M. GANDHI : A new amending bill can be brought in.

The Honourable the PRESIDENT : If the House wants I will put the question, should I feel some way out of the difficulty.

Mr. KANJI DWARKADAS : Mr. President, your ruling is so clear that even a layman like me follows it very well. The Council having accepted the wording "exceeds six annas but does not exceed twelve annas.....One anna", I think the Honourable the Finance Member's amendment is now out of order. You have given your ruling and there can be no doubt about it.

The Honourable Mr. M. H. W. HAYWARD : I submit, Sir, that what the House has decided is simply this that all admission fees below 12 annas shall be taxed. The House has not decided at what rate they should be taxed. The motion really was that anything below 12 annas should not be taxed at all. I speak with reference to Mr. Haji's amendment that the clause "exceeds six annas but does not exceed twelve annas" should go out. He did not suggest what the taxation should be. He wanted the whole clause to go out. The House has decided that question in the negative, but the House has not yet considered what the tax should be. I submit, Sir, that we are now entitled to consider what it should be, whether it should be as it stands or as proposed by the Honourable the Finance Member.

Mr. C. M. GANDHI (Surat City) : May I point out, Sir, that we deliberately voted on the question knowing the result of it ? It is no use attributing to us something which was not in our minds. The effect was present to my mind and also to the minds of my honourable friends sitting on my right and left.

The Honourable Sir CHIMANLAL SETALVAD : May I point out, Sir, that all that the House has decided is whether that clause should or should not be deleted. If it was to remain, what should be the amount of taxation was never discussed by the House at all. The question was whether the clause should be deleted and the House has decided against the deletion.

The Honourable the PRESIDENT : I am sorry to interrupt, but I am quite sure that, when there are two amendments, one to leave out all the words and the other to leave out some words and insert new words instead of those to be left out the first to be put is the amendment to leave out all the words. The way in which it should be put is that the words proposed to be left out do stand part of the clause. When that is decided, the Speaker always

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says the other falls to the ground. I am not sure. It is a question then of what is debated and what is not debated on the amendment put.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Mr. President, Standing Order VIII, 9, lays down a rule which is binding and it does say in line 4 that the President shall call the number of each clause separately, and, when the amendments relating to it have been dealt with, shall put the question "that this clause or (as the case may be) this clause, as amended, stand part of the bill." There may be several amendments, but all these amendments should be put. In this present case only one amendment has been spoken to; other amendments have not been spoken to. Of course, I do not care what happens to this particular case, but suppose we have several amendments. I therefore say that this House has a right of voting on all the amendments, including the Honourable the Finance Member's amendment. The Standing Order says: "When the amendments relating to it have been dealt with....."

The Honourable the PRESIDENT: All that is subject to this, namely that the amendments are in order. You deal with all amendments either by ruling them out of order or by putting them as being in order. Merely because there are amendments on paper, it does not follow that they are in order. They are allowed to be moved if the Chair finds they are in order. If they are not in order the Chair declines to allow them to be moved. That is dealing with them.

Rao Bahadur G. K. CHITALE: Is it the ruling—I want it quite definitely—that all the amendments need not be discussed by this House? Is it the ruling that if one amendment is put and disposed of, all the amendments fall to the ground?

The Honourable the PRESIDENT: The Honourable Rao Bahadur, I am afraid, is confusing the words "to deal with an amendment" with "putting an amendment." The two ways of dealing are not the same. When I have ruled an amendment as not in order, I have dealt with it, and so the Standing Order relied upon by the honourable Rao Bahadur is satisfied because complied with. If the effect of an amendment which is carried be to show that the House has come to a decision, then any amendment inconsistent with that decision cannot survive and is thus dealt with as being out of order.

Rao Bahadur G. K. CHITALE: But the House has a right to discuss and vote all the amendments.....

The Honourable the PRESIDENT: The Honourable Rao Bahadur should not say that after my explanation.

The Honourable Sir IBRAHIM RAHIMTOOLA: May I say a few words, Sir?

The Honourable the PRESIDENT: Yes.

The Honourable Sir IBRAHIM RAHIMTOOLA: I have noticed for a considerable time that the procedure—I am speaking generally as regards amendments—adopted by you is that, supposing there are more amendments than one on a given clause, you, Sir, have been putting that amendment not as an amendment to a particular part of a clause but you put the whole clause to stand part of the bill as against the amendment. Now, if the amendment is rejected, your ruling is that, as the whole clause has been accepted by the Council, no further amendments can be moved. That has been the procedure

[Sir Ibrahim Rahimtoola]

you have followed all these months, but it is open, Sir, to this serious objection that the other amendments on such clause, be they official or non-official amendments, become dropped automatically. This appears hardly fair. The procedure that should in my opinion be adopted, is that the amendment should be put to the vote by itself; not to the clause as a whole, but as regards the particular point dealt with in it. If you do that, the vote of the Council will dispose of that amendment only and cannot be construed as acceptance of the whole clause. This would avoid making all other amendments to the clause, *ultra vires*. If you, Sir, adopt the procedure in future which I have suggested, I think it will be fair to the whole House. Put an amendment as an amendment by itself and let the voting be for that amendment alone, irrespective of what the House proposes to do as regards the other parts of the clause. If you continue the procedure adopted so far, that is, if you put the whole clause to the vote, when only one amendment is discussed, the House votes for the clause only with the idea of rejecting that specific amendment. The intention cannot possibly be to vote against all the other amendments to that clause which may stand on the agenda paper. The effect of the procedure however is that when one amendment to a clause has been voted upon, all other amendments fail without discussion or vote. That is a procedure which has always occurred to me to be hardly fair to all the interests concerned. I would therefore appeal to you, Sir, that in future you should put the amendment as an amendment, so that when it is disposed of, only that part of the clause to which that amendment referred becomes decided by the vote of the Council. This would enable every other amendment in regard to any other part of that clause to be moved and the House would have an ample opportunity of discussing all aspects of every proposed legislation. Sir, I should like to point out that this is a question of legislation. It is not a matter which can under the rules be altered or amended at the end of one year as is the case with resolutions. Legislation stands good till it is repealed or amended. It is therefore obviously necessary that the House should have ample opportunity of discussing each clause by means of any number of amendments that it may choose to propose. That is the procedure which I would apply to the present case and allow all other amendments to be moved including the amendments of which the Honourable the Finance Member has given notice.

The Honourable the PRESIDENT: I cannot accept that. I have however found a solution of the difficulty. In the House of Commons the procedure adopted is this.

An amendment inconsistent with the clause already passed is not in order, but there may be an exception—where the House of Commons decided that by a clause certain increases shall be allowed and an a amendment was thereafter sought to be moved that those increases shall not exceed one-third in a year, an honourable member on a point of order objected that the amendment was inconsistent with the portion of the clause already passed. But the Speaker held that the rule that no amendment inconsistent with a decision passed shall be allowed is not and should not be made a hard and fast rule. The Speaker said further:

"It has always been the custom of this House to allow a discussion on an amendment of this character and I propose to accept this one, but I think I should be quite justified in not allowing further amendments to whatever the House has already decided."

What the Council has decided by retaining all the words while the honourable member for Bombay (Mr. Haji) moved to leave out, is that certain increases

[The President]

shall be allowed. To that there can be one amendment allowed according to the Speaker's ruling I have cited (Parliamentary Debates: House of Commons: 5th series: Vol. 130: Col. 1830). Relying on this rule I allow the Honourable the Finance Member to move his amendment. I must admit that for the moment I had not in my mind the Honourable the Finance Member's amendment. It was not discussed; so the House has not had an opportunity of considering it. Making an exception under the ruling of the Speaker of the House of Commons which I have given above, I allow the amendment.

Rao Bahadur R. R. KALE: I wish to know, Sir, whether the practice which you have followed is consistent with our Standing Orders.

The Honourable the PRESIDENT: It is perfectly consistent with our Standing Orders.

Mr. IBRAHIM S. HAJI: What is the fate of my amendment?

The Honourable the PRESIDENT: That amendment has already been decided upon.

The Honourable the PRESIDENT: Amendment of the Honourable the Finance Member:

"That the word 'six' in line 8 of clause 3 (1) be left out and that the word 'four' be inserted."

The discussion will be on both parts of the proposition but I will put only the preliminary part when it comes to vote.

The Honourable Mr. H. S. LAWRENCE: Mr. President, the amendment which I wish to move runs as follows:—

*In clause* 3 (1). After the words:—"Where the payment excluding the amount of duty" the first two sub-clauses should be—

| | |
|---|---|
| "exceeds four annas but does not exceed eight annas | .. One anna". |
| "exceeds eight annas but does not exceed one rupee | .. Two annas". |

Does the Honourable the President wish me to put the two different sentences separately or together?

The Honourable the PRESIDENT: The word "six" to be altered to the word "four".

The Honourable Mr. H. S. LAWRENCE: Similarly with regard to the next item?

The Honourable the PRESIDENT: Yes.

The Honourable Mr. H. S. LAWRENCE: The object of this amendment is clearly to secure some more revenue. The original bill proposed to tax three kinds of tickets, up to and including four annas, half anna. That was struck out by the select committee and that omission has been accepted by Government. In regard to the second class of tickets, the select committee proposes to except seats of five annas and six annas. Government, after considering the matter further in the light of statistics, consider that seats of four annas should still be exempted but that seats of five, six, seven and eight annas should all be charged one anna. I mentioned before some figures as to the number of cinema-goers, people who frequent various kinds of entertainments. I shall repeat them here. We expect 12 lakhs of people to visit seats of four annas and below. By taxing people who pay six annas, we tax another seven lakhs of people at the rate of one anna and by taxing people who take eight anna

[Mr. H. S. Lawrence]

seats, we tax about another five lakhs of people also at the rate of one anna. For seats above eight annas we propose to tax two annas and that represents another seven lakhs of cinema-goers. Now, in other countries, for example in the United Kingdom, there is no such exemption at all. I understand that all seats during the war were taxed and I think that still continues. We propose to exempt the lower class seats from all taxation and we also consider that it is right and proper that the taxation should begin at the figure of five annas, six annas and so on. The revenue we hope to get in this manner will be anything between half a lakh to one lakh of rupees. I, therefore, submit my amendment in the full confidence that the House will accept it.

Mr. C. M. GANDHI (Surat City): Mr. President, I oppose the amendment. The report of the select committee was arrived at after considerable discussion, and if we want to impose this additional tax by means of this amendment, it would be ruining the industry. I think I am not making any breach of faith when I say that the members of the select committee signed the report on the distinct understanding that the rates which they proposed would be the utmost that would be levied. Looking to all the circumstances, looking to the evidence recorded, the decision to which the select committee came was a very deliberate one, and I do not think it would be right for this House to change their deliberate opinion merely on the statement now made by the Honourable the Finance Member that that would have the effect of reducing income. After all, it must be conceded that people who go into classes from 4 to 8 annas ought to have some cheap amusement.

The Honourable Sir CHIMANLAL SETALVAD: The four-anna people are exempted.

Mr. C. M. GANDHI: Yes; the four-anna people are exempted. But the evidence before the select committee went to show that it is not right to tax even the eight-anna class, and as a compromise, in order that the revenue may not be sacrificed, the select committee came to the conclusion of exempting the six-anna class. I say that looking to the state of the industry in the mofussil, particularly in places like Surat, the imposition of a tax on the lower classes would be tantamount to closing the cinemas. I, therefore, hope that the decision of the select committee will remain.

Mr. B. V. JADHAV: Mr. President, I rise to support the amendment which has been moved by the Honourable the Finance Member. Cinema-going and theatre-going is not a necessity but a luxury, and one who enjoys it may be expected to pay a tax if Government asks him to do so. It is enough to exempt the poor people who cannot pay for seats costing more than four annas, and all paying above that sum ought to pay the tax as is now proposed in this amendment. We want money very badly, and I think that people who pay six annas or more for their amusement ought not to grudge the paying of this tax.

Mr. KANJI DWARKADAS: Mr. President, I am afraid I cannot support the amendment which has been moved. The reasons why some of us in the select committee wanted to exempt the 6 anna class were these. The two last classes of the cinemas are those paying 3 and 6 annas, and some of the members of the select committee thought—I was one of them—that if we tax the 6 anna class there will be a fall in the revenues, because there will be lesser people going into that class, as those who frequent the 6 anna class now will go to the three

[Mr. Kanji Dwarkadas]

anna class, and therefore, instead of getting more money we would suffer in revenue. We had in mind particularly the two lowest classes, namely, the three-anna and six-anna classes, where very poor people and the lower middle classes go. Therefore, some of the members of the select committee did not want to tax classes under six annas, and they wanted the poorer classes of the community not to be burdened with any extra taxation.

Mr. G. FINDLAY SHIRRAS: Mr. President, I think we ought to accept this amendment, because those who are paying 4 annas and under are entirely exempt. My other reason is that in other countries there is no exemption such as we propose. I think we are even erring on the generous side. In the United Kingdom, for example, where the payment for admission is 2½ pence the tax is a half-penny; if it exceeds 2½ pence but does not exceed 4 pence, 1 penny; if it exceeds 4 pence but does not exceed 4½ pence, 1½ pence; if it exceeds 4½ pence but does not exceed 7 pence, 2 pence. The honourable member who has just spoken will see that in Bombay there is no proposal to tax the four-anna class. We are looking in this to the interests of the working classes, and we have them at heart. I, therefore, think that we ought to allow the amendment to go through without any opposition.

Mr. G. B. TRIVEDI (Thana District): Mr. President, the only question to be considered on this amendment is that the select committee examined the proprietors of cinema houses and came to the decision that the tax should not fall on people who are admitted for 6 annas in the interests of the cinema industry. The select committee came to that conclusion with some evidence before them. Now, if Government Members who signed the report without any dissenting minute, want to go behind it and propose amendments, they must advance fresh proof before this House to show that the evidence that was produced before the select committee was insufficient, that it was misleading, and that they have now come to the conclusion from other evidence, which should be placed before the House, that the cinema houses are prospering. The reasons that led the select committee to arrive at a certain conclusion are in the report, and now if that decision is to be reversed, then it must be reversed on sound grounds. I am not pleading for the poor; let them take care of themselves. I am pleading for fairness. The select committee came to certain conclusions on certain evidence placed before them and the Government Members also agreed with those conclusions. Now, if you want to reverse the judgment of the select committee, you must have fresh proof to show that the cinema houses are not in the depressed state in which they were represented to be before the select committee.

The honourable Director of Labour has given the fugures of the United Kingdom. I shall ask him when those figures were in force.

Mr. G. FINDLAY SHIRRAS: In 1917.

Mr. G. B. TRIVEDI: It was during the war when working classes were getting good wages. People then were making a good amount of money, and did not know what to do with it.

The Honourable the PRESIDENT: Mr. Shirras, do you rise on a point of order or for a personal explanation?

Mr. G. FINDLAY SHIRRAS: An explanation, Sir. May I say to my colleague that the schedule I quoted is the schedule still in force.

Mr. G. B. TRIVEDI: I do grant that it is in force. But what I wish to point out is that there is a good deal of difference between a growing industry and an established industry. In India, cinema is an infant industry, whereas in England it has passed that stage and it is an established industry. An infant industry requires protection, but you are on the other hand strangling it. Here we are in a position to profit by the experience of other countries. While it is our duty to protect that industry, we should not be a party to strangle it.

Mr. O. ROTHFELD: Sir, I move the closure.

Question put that the word "six" do stand part of the clause.

House divided: Ayes 14, Noes 53.

Amendment carried.

*Division No. 2.*

**Ayes**

BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
COOPER, Khan Bahadur D. B.
DADACHANJI, Dr. K. E.
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI
GANDHI, Mr. C. M.
GODBOLE, Dewan Bahadur K. R.
HAJI, Mr. IBRAHIM S.
MODI, Sardar Davar T. K.
MOTIRAM, Rao Saheb RUPCHAND
NILKANTH, Rao Bahadur R. M.
TRIVEDI, Mr. G. B.
VICHARE, Rao Bahadur D. A.

*Tellers for the Ayes:* Mr. IBRAHIM S. HAJI and Mr. KANJI DWARKADAS.

**Noes**

ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BEDREKAR, Khan Bahadur I. M.
BELL, Mr. R. D.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
CADELL, Mr. P. R.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHITALE, Rao Bahadur G. K.
COCKE, Mr. H. G.
DABHOLKAR, Mr. VASANTRAO ANANDRAO
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DRAKHAN, WADERO MAHOMED PANAH
DUBHASHE, Mr. SHANKAR BALKRISHNA
GAYASUDDIN JAUDDIN, Mr.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HATCH, Mr. G. W.
HAYWARD, The Hon'ble Mr. M. H. W.
JADHAV, Mr. B. V.
JENNINGS, Major General W. E.
KALE, Rao Bahadur R. R.
LALBHAI AMBARAM, Mr.
LALJI NARANJI, Mr.
LORY, Mr. F. B. P.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MURPHY, Mr. S. J.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PARANJPYE, The Hon'ble Dr. R. P.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SETALVAD, The Hon'ble Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY
SINDORE, Mr. H. N.
THAKOR of AMOD, Sardar NAHARSINGHJI
THOMAS, Mr. G. A.
WOODS, Mr. E. E.

*Tellers for the Noes:* Mr. G. FINDLEY SHIRRAS and Mr. O. ROTHFELD.

The Honourable the PRESIDENT: Now, I put the other part of it.

Question put

"that in clause 3, sub-clause (1), line 8, the word 'four' be inserted instead of 'six',"

and agreed to.

The Honourable Mr. H. S. LAWRENCE: I beg to move:

"that in clause 3, sub-clause (*1*), line 9, leave out the word 'twelve' and insert instead the word 'eight'."

Question put

"that in clause 3, sub-clause (1) line 9 the word 'twelve' proposed to be left out do stand part of the clause,"

and lost.

Question put

"that in clause 3, sub-clause (1), line 9 the word 'eight' be inserted instead of the word 'twelve' left out,"

and agreed to.

The Honourable Mr. H. S. LAWRENCE: I now move:

"that in clause 3, sub-clause (1), line 9 for the word 'twelve' substitute the word 'eight'."

Question put

"that in clause 3, sub-clause (1), line 9 the word 'twelve' proposed to be left out do stand part of the clause,"

and lost.

Question put

"that in clause 3, sub-clause (1), line 9 the word 'eight' be inserted instead of the word 'twelve' left out,"

and agreed to.

The Honourable Mr. H. S. LAWRENCE: Mr. President, may I make a motion before Mr. Gandhi rises? In line 56 there is a clerical error: the words 'for every five rupees' should run 'for every five rupees or part thereof.' I move:

"that in line 16 of clause 3, sub-clause (1), after the words 'five rupees' the words 'or part thereof' be inserted."

Question put and agreed to.

Mr. C. M. GANDHI (Surat City): Sir, I formally move the amendment standing in my name, namely:

"that in clause 3, sub-clause 1, at the end insert the following:
'The whole of the balance of the monies so received after deducting the cost of collection thereof shall be allotted every year for providing for the elementary primary education in the Presidency.'"

The Honourable the PRESIDENT: You cannot move it. I must declare it out of order, because it requires the recommendation of His Excellency the Governor, as it is a motion for appropriation.

Mr. IBRAHIM S. HAJI: Sir, I beg to move:

"that in clause 3, omit sub-clause (3) with its explanation."

Sir, I do not think I will take much of the time of the Council in proposing this amendment. If this House passes this bill without embodying this amendment, it will force the complimentary tickets to be taxed as well. As this House has now voted for a tax of 50 per cent. on the admission fees to the race-course, and also voted for a duty on all tickets of the value exceeding four annas, instead of six annas, I do not think that Government will lose much revenue if they do not tax the complimentary tickets. In the select committee we had evidence from the cinema and theatre proprietors and also from the police that hardly 1 per cent. of the people going to these places are entering with complimentary tickets. I expect that Government will consider this point and will exempt the complimentary tickets from taxation. If this House agrees that complimentary tickets should not be taxed the only way is to omit sub-clause (3) of clause 3: It says:

"A complimentary ticket shall for the purposes of this Act be deemed to be issued on payment of such amount as the Governor in Council may by rule determine."

[Mr. Ibrahim S. Haji]

Now, if this Council does not remove this clause, then all the complimentary tickets will be deemed to have been issued on payment and will come under taxation. I ask this House not to allow this sub-clause to stand part of the bill.

Again, Sir, before I sit down I may explain to the House the importance of these complimentary tickets. These complimentary tickets are issued first to certain police officers who go there as the eyes and ears of Government and inspect the films and pictures shown in the cinemas and plays performed in the theatres, and see whether they are objectionable when they are depicted on the stage. The other importance of complimentary tickets is that the representatives of the press go generally to the cinemas and theatres under the passes issued as complimentary tickets. Certainly the press cannot say anything about a film or a play unless the members of the staff have attended the theatre personally. It would be very unfair on their part to say anything about it without having seen a film or a play themselves. Then the third very important point regarding these complimentary tickets is this, that the cinema trade requires a sort of advertisement. I told the House yesterday that it is a new industry and it is now being indianised, and advertising is a sort of help which this industry requires, and greater help will be given to it if it is properly advertised, and the best way of advertising it is to give complimentary tickets to the different interests concerned. If these complimentary tickets are stopped, the importance and urgency attached to these complimentary tickets will be negatived to these cinemas and theatres and there will be so much suffering to that extent. The police officers who had been before the select committee explained to us that it would be a good thing to exempt these complimentary tickets, and I therefore ask this House to remove this sub-clause (3) and the explanation, and thus exempt the complimentary tickets from being taxed.

The Honourable the PRESIDENT: The Council is adjourned to 1 p.m. on Thursday the 7th December 1922.

*Thursday, the 7th December 1922.*

The Council re-assembled at the Town Hall, Bombay, on Thursday, the 7th December 1922, at 1 p. m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present:*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BELL, Mr. R. D.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CADELL, Mr. P. R.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHITALE, Rao Bahadur G. K.
COCKE, Mr. H. G.
COOPER, Khan Bahadur D. B.
CREERAR, Mr. J.
DABHOLKAR, Mr. V. A.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DRAKHAN, WADERO MAHOMED PANAH
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI
FERNANDES, Major C.
GANDHI, Mr. C. M.
GAYASUDDIN JAUDDIN, Mr.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Honourable Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GODBOLE, Dewan Bahadur K. R.
GHULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.

Halkatti, Rao Saheb Phakirappa Gurubasappa
Hatch, Mr. G. W.
Havelivala, Mr. M. A.
Hayward, The Honourable Mr. M. H. W.
Hood, Mr. A. J. F.
Jadhav, Mr. B. V.
Jennings, Major General W. E.
Kalbhor, Mr. G. M.
Kale, Rao Bahadur R. R.
Kambli, Mr. S. T.
Kanga, Mr. J. B.
Kassim, Mr. G. H.
Lalbhai Ambaram, Mr.
Lalji Naranji, Mr.
Lawrence, The Honourable Mr. H. S.
Lory, Mr. F. B. P.
Mead, Mr. P. J.
Mehta, The Honourable Mr. C. V.
Modi, Sardar Davar T. K.
Mohidinkhan, Khan Saheb Haji Hazrath Khan
Mohomed Salahuddin K., Mr.
Motiram, Rao Saheb Rupchand
Murphy, Mr. S. J.
Mutalik, Sardar V. N.
Nelson, Mr. F.
Nilkanth, Rao Bahadur R. M.
Nimbalkar, Mr. K. B.
Ojha, Mr. Dipchand T.
Pahalajani, Mr. B. G.
Paranjpye, The Honourable Dr. R. P.
Parulekar, Rao Saheb L. V.
Patel, Mr. B. P.
Patel, Mr. J. B.
Pawar, Shrimant J. A.
Pradhan, Mr. M. W.
Proes, Mr. E. M.
Rahimtoola, The Honourable Sir Ibrahim
Rothfeld, Mr. O.
Saherwala, Khan Saheb I. A.
Salgar, Mr. R. G.
Setalvad, The Honourable Sir Chimanlal

SHIRRAS, Mr. G. FINDLAY
SINDORE, Mr. H. N.
SURVE, Mr. A. N.
THAKOR of AMOD, Sardar NAHARSINGHJI
THOMAS, Mr. G. A.
TRIVEDI, Mr. G. B.
VICHARE, Rao Bahadur D. A.
WOODS, Mr. E. E.

## ENTERTAINMENNTS DUTY BILL (BILL NO. XX OF 1922).

(Debate on clauses continued).

The Honourable the PRESIDENT: Order, order.

Question again proposed that sub-clause (3) of clause 3 be left out.

Mr. G. B. TRIVEDI (Thana District): Sir I rise to support this amendment. Some cinema and theatre owners wish to issue complimentary tickets to some of their friends and others who do service to them by advertising or otherwise. Here we were very often told that in the United Kingdom and other countries these things were not given and those things were given. Now, if that is so, I quote the example of the United Kingdom. There these complimentary tickets are not taxed and if the Honourable the Finance Member is anxious to follow the example of the United Kingdom and other countries, then why should he not follow this and why should he put these people to inconvenience? And how will the provincial revenues suffer by that? Only a few tickets—as it is said in the select committee's report, or in the minutes of one of my honourable friends who were on the select committee, it is only about 1 per cent. of the whole tickets that the complimentary tickets are given. So, is it right that we should not allow the owners to have the concession or right of giving even complimentary tickets either to their friends or to those who help them in their business? That is the real position, and, over and above the press representatives, to whom these tickets have to be given, there are others who help the cinemas. For example, my information is that they have to give complimentary tickets to several restaurants and to several houses of the furnishing trade who help these people without payment in advertising and furnishing their show. If they help their business in that way, then it is but fair that those who help their business in that way should be given some consideration, and it is for us to see that the cinema owners are helped especially when we know that the cinema industry is in a depressed state. If that is so, then why take away the little facility or help that they get from the press and other advertising agencies? So I hope that at least now that a tax is to be levied on tickets of over 4, annas and Government are going to get a large addition to their revenues, they should give this concession to the owners to give complimentary tickets—a certain percentage of course—free of taxation thereon. So, with these words I beg to support the amendment.

Rao Saheb D. P. DESAI (Kaira District): Sir, I regret I cannot support my honourable friend from Thana in regard to his views on this amendment. If the poor peope are obliged to pay the tax, why not compel the richer people to pay? They are better able to bear the tax. My honourable friend from Thana has told us that the cinema industry is in a very depressed condition. But I think that if he takes into consideration the fact that the money derived from

[Rao Saheb D. P. Desai]

this depressing but at the same time unproductive industry is to be utilized for the benefit of an equally depressed but at the same time a productive industry, he will agree with me when I say that it is better that an unproductive industry might suffer a little bit for the sake of a productive one. This is the reason why I think that this advantage of complimentary tickets, whether it is 1 per cent. or ½ per cent. I do not care, should not be given without the tax. Again anybody having a complimentary ticket should not see the drama or cinema show for nothing and at the same time pay nothing to the State. On principle, I am opposed to this double exemption. Why should it be so? The State should have prior claim on such persons. I also believe that indirectly this tax will help Bombay itself and its industries because a thoroughly educated countryside, well-educated countryside, will immensely increase the volume of both export and import trade of Bombay which is the biggest produce market and a great terminal centre in our Presidency. Any effect on the country side brought about by education would enormously increase the commodities that come to and are purchased in Bombay, and the cinema industry along with other trades will also benefit in not a small measure from this tax. So looking from this point of view I think the industry should be taxed as has been proposed in this bill without any exemption as regards complimentary tickets. With these remarks I oppose the amendment.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Mr. President, I submit that the amendment proposed by the honourable member is reasonable. The principle involved in the bill is that when any payment is made to a cinema, a theatrical company, etc., a tax should be levied on such payment. When a complimentary ticket is given for no payment, it is not fair that it should be taxed and that again at a rate to be decided by the Governor in Council. A rate fixed by the executive in such circumstances is bound to be very high. If admission is obtained to a cinema or a theatre by way of a complimentary ticket, it means that no profit is made by the cinema or theatre. It may perhaps be said that a complimentary ticket may be used for evading the law. If so, my submission is that there are several ways of evading the law and it is for the authorities to detect evasion of the law; but because there is chance of evasion it is certainly not fair that complimentary tickets should be taxed and that the managers of cinemas or theatres should be charged when they make no profit on complimentary tickets which they must always issue. I therefore support the amendment.

Rao Bahadur R. R. KALE (Satara District): Mr. President, in rising to support this amendment, I would say, first of all, that complimentary tickets did not find any place in the original bill, but the definition has been added in the select committee, and there is a further point about it, namely, the valuation of a complimentary ticket on which this tax is to be levied. It is stated in the caluse:

"A complimentary ticket shall for the purposes of this Act be deemed to be issued on payment of such amount as the Governor in Council may by rule determine."

So that, here again we find that it is left to the Governor in Council—the executive Government, in other words—to fix the value of the complimentary tickets, and the explanation goes on to say:

"A complimentary ticket includes any permission entitling any person to admission to any entertainment without payment or on special terms of payment."

[Rao Bahadur R. R. Kale]

That means even if an officer either of the police or the municipality has to attend a performance at a cinema on duty, he will have to pay this tax. It seems to me that the object of the tax is to subject payments of money to an additional taxation and when no payment is received by the proprietor, it seems the proprietor will be out of pocket and in fact it will be adding to his expenditure and not to his income. Therefore I think that the attempt which has been made by the select committee to bring complimentary tickets under the operation of this tax is very unjust. Now that we have fixed a percentage of taxation for admissions to race-courses and now that we have also taxed tickets exceeding four annas, I cannot understand why it is sought to tax complimentary tickets. I am one of those who entirely support all measures which are calculated to bring in more revenue to the State, but in this particular instance I must say that I am inclined to object to this provision in the bill and therefore I support the amendment.

Dr. K. E. DADACHANJI (Bombay City): Mr. President, we have discussed this question in the select committee and one authoritative account gave the figure as 1 per cent. for the complimentary tickets, and representatives of the cinemas put it at 4 per cent. Cinema owners have to run their business; and hence they are compelled to issue complimentary tickets to various newspapers, restaurants, tea-shops and even to the management of their staff. We see big posters placed in Irani and other tea shops and these shopkeepers must be given complimentary tickets. We have agreed to tax 50 per cent. on admissions to the race-courses, and we have also decided to tax all tickets above four annas. I think just for the sake of one per cent. the Honourable the Finance Member in charge should not press his proposition to levy this tax on complimentary tickets. Why not wait to have an experience of two or three years in this respect? If after that period we find such a tax is absolutely necessary owing to its abuse, then suitable steps can be taken to provide for it. I do not think for the present it is necessary to tax complimentary tickets.

Mr. A. P. CHAUGULE (Belgaum District): Sir, I think the lowest tickets are the proper tickets to have been exempted, but the House not having exempted these, it would be extremely unjust to exempt these tickets, because they do not in any way hit the cinema-owners as was rightly pointed out by the honourable member for Satara. The tax will come directly from the pockets of the persons to whom these complimentary tickets are supplied and therefore the owners of the cinemas who run the shows do not in the least suffer by such tickets being taxed. It was pointed out by the honourable member for Thana that the percentage of such complimentary tickets was only one per cent., but if we exempt these complimentary tickets, their number may go up at once, and it may be thought perhaps that this was the only way which was open to cinema-owners to get round the provisions of the Act by issuing a large number of complimentary tickets. So, in order to safeguard that also, I think we ought not to exempt these complimentary tickets.

Mr. C. M. GANDHI (Surat City): Mr. President, I think the matter should be looked at from a practical business point of view and if looked at in that way, I think the Honourable Member in charge of the bill would see his way to accept the amendment. After all there is nothing to prevent the manager of a cinema to arrange that any particular seats or any particular class of them wil

[Mr. C. M. Gandhi]

be seats, admission to which will be by four anna tickets; you cannot by statute prevent owners of cinemas from doing so. So that persons who are now admitted as complimentary ticket-holders would in future be admitted to special seats or boxes and label them as four anna tickets seats eventually exempting all of them. It is therefore more business-like and straight to allow complimentary tickets to be given as they are being given up till now. I therefore think that in order to prevent such dishonourable practices, it is much better to accept the amendment and allow complimentary ticket-holders to go free.

Mr. O. ROTHFELD: Mr. President, I had no idea that the amendment before the House was one likely to excite very keen feelings in a considerable section of the House, nor do I suppose for a minute that the acceptance or rejection of the amendment is likely to injure to an appreciable extent the cause of compulsory primary education or the peace and order of the Empire. At the same time, while I myself have a very open mind on the subject, I think there are many points which are quite relevant to the question. There was a period in my life, unfortunately long since disappeared, when I had considerable practical acquaintance with the subject of complimentary tickets for theatres. Those days are gone. But in consequence I have listened with some surprise to the statements made by several honourable members to the effect that complimentary tickets are not taxed in any other country in the world. That I can assure the Council is not correct. Rather recently I was again placed in the position of having to accept complimentary tickets abroad. In France I may tell the Council it is the practice for the Collectors of districts or Prefects invariably to receive free tickets to all theatres. I have not found that such is the case in this country or that theatre-owners are so very generous in India. But in France even on these tickets I can assure the House I had to support the defence of France by paying taxes.

There is one more consideration which I might as well point out to the House. Once complimentary tickets escape this tax, while other classes of tickets are taxed, there is considerable chance of an illicit traffic in complimentary tickets being initiated. I admit that there is provision for punishing such acts, but I think this is a matter which still deserves consideration. As I said, I do not feel very keenly one way or the other on the point, but I think the House will consider the points that it is not correct to say that complimentary tickets are not taxed in other countries and that if complimentary tickets are not taxed, it increases the possibilities of dishonesty.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Mr. President, I think that the select committee has exceeded its terms of reference about the principle on which the first reading was accepted by this House. At the first reading, we accepted the principle that only those persons who will seek admission to theatres or cinemas on payment will be taxed. This House never accepted the principle that those persons who will go free without paying anything will be taxed.

The Honourable the PRESIDENT: Order, order. That is a point for me and not for the honourable member. If it were out of order, I should have at once said so. I think it is perfectly in order; the honourable member need not trouble himself about it.

Sardar V. N. MUTALIK: My only point is that the report of the select committee is inconsistent with the provisions of clause 3 of the bill, where it is

Sardar V. N. Mutalik]

stated that there shall be a tax on all *payments for admission* to places of entertainment.

The Honourable the PRESIDENT: Whether you go in by a complimentary ticket or by payment, it is admission all the same.

Sardar V. N. MUTALIK: My point is that the House accepted the principle of taxing only those persons who seek admission on payment. That is clearly stated in the bill. It says:

"There shall, from the 1st day of February 1923, be levied and paid to the Government of Bombay, *on all payments for admission* to any entertainment, etc."

But the select committee has introduced a new thing. The clause does not say that there shall be a tax on mere admission but on payments for admission, and I think the select committee has exceeded its terms of reference in putting in this new provision.

The Honourable the PRESIDENT: If that is so, the proper course is to ask for a ruling from the Chair on a point of order that this sub-clause is beyond the scope of the bill.

Sardar V. N. MUTALIK: I now address the Chair on a point of order.

The Honourable the PRESIDENT: The "explanation" says that "a complimentary ticket, shall, for the purposes of this Act, be deemed to be issued on payment". 'Deemed'—that is a legal fiction introduced for the purpose of relating back to the definition clause, and bringing within the tax people who are admitted to the entertainment without payment because of a *complimentary ticket*. The explanation merely provides against possible evasion of the law. It is therefore not so clearly beyond the scope that I can rule it out of order.

Sardar V. N. MUTALIK: Although, Sir, you rule that it is in order, I may say that it is putting in something which perhaps the House never intended should be there. It is an attempt to take the House unawares.

Speaking on the merits of the question, I say that those persons who are given complimentary tickets are not always exactly persons who want to go to any entertainment; but sometimes they have to go to such places even if they are unwilling to do so. In such cases, to tax a person who attends an entertainment against his will is something which I hope the Council will not think as justifiable. I therefore support the amendment.

Mr. KANJI DWARKADAS: Mr. President, the fears entertained by my honourable friend from Belgaum (Mr. Changule) that there will be an evasion of the law if we make complimentary tickets tax-free are not at all imaginary, and that is one of the reasons why we thought that complimentary tickets should be taxed, but since we came to this decision, we have been told by people interested in the trade—and they alone can give us this information—that complimentary tickets are not distributed broadcast to anybody and everybody. We have been told that complimentary tickets are given as an indirect payment for advertisement. All of us who walk in the streets of Bombay notice that placards and other advertisements for the different cinema shows are always placed in the windows of Irani shops, in hotels, in the Taj Mahal Hotel, and various other places. I am told, and I know it is quite true, that because these Irani shops and hotels keep the handbills and advertisements, the cinema companies give them a certain number of complimentary tickets. I am further assured that these tickets are not transferable. That certainly makes a great

[Mr. Kanji Dwarkadas]

difference, and I think that is a consideration which ought to weigh with us. Then also, this kind of advertisement will bring more revenue to us, because by this broadcast advertising people will be induced to go to cinema shows, thus adding to the revenues of the Government. Also, as my honourable friend opposite (Mr. Rothfeld) told us, complimentary tickets are given to the representatives of the press, in whose hands it is to boom a show, and if they do it well, the result will be that more people will be tempted to go to the various shows which are properly advertised and boomed by the press. Under these circumstances, because of this information conveyed to us since we reported last month, I think we ought very seriously to reconsider our decision and make complimentary tickets tax-free.

The Honourable Mr. H. S. LAWRENCE: Mr. President, I am not often in the happy position of being moved by the eloquence of my honourable friend opposite, but on this occasion I must say that his instincts coincide with mine, and I am convinced that it would be good business to allow these complimentary tickets to be given free of any tax. The reason why this provision was inserted by the select committee was to guard against fraud. I am now satisfied that the penal provisions of the bill will be a sufficient safeguard; and on the other hand, I agree with my honourable friend opposite that it may entail loss to the cinema proprietors.

I notice an amendment by Mr. C. M. Gandhi who wants some concession to be shown to the school-going children. If this power to issue complimentary tickets is given to cinema proprietors they will be able to exercise that power in favour of children also. In these circumstances, I beg to submit, Sir, that I am quite prepared to accept the amendment proposed by the honourable member for Bombay (Mr. Ibrahim S. Haji).

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 4 (*Method of levy*) *ordered to stand part of the bill.*

Clause 5 (*Punishment for non-compliance with section 4*) *ordered to stand part of the bill.*

Clause 6 (*Entertainments for charitable or educational purposes exempted: exemption by Government*).

(1) Entertainments duty shall not be levied on payments for admission to any entertainment where, in the case of the City of Bombay, the Commissioner of Police, or elsewhere, the District Magistrate, is satisfied that:—

(*a*) the whole of the takings thereof are devoted to philanthropic or charitable purpose without any charge on the takings for any expenses of the entertainment; or

(*b*) the entertainment is of a wholly educational character; or

(*c*) the entertainment is provided partly for educational or partly for scientific purposes by a society, institution or committee not conducted or established for profit.

(2) Where the Commissioner of Police or the District Magistrate, as the case may be, is satisfied that the whole of the net proceeds of an entertainment are devoted to philanthropic or charitable purposes, and that the whole of the expenses of the entertainment do not exceed twenty per cent. of the receipts, the amount of the entertainments duty paid in respect of the entertainment, shall be refunded to the proprietor.

(3) The Governor in Council may, by general or special order, exempt any entertainment or class of entertainments from liability to entertainments duty.

The Honourable Mr. H. S. LAWRENCE: Mr. President, I rise to move the following amendment:

"In sub-clause (3) of clause 6 the following words should be inserted after 'liability to entertainments duty':—

'and wholly or partly remit the duty leviable under section 3 (1) on payment for admission to any entertainment or class of entertainments'."

[Mr. H. S. Lawrence]

This amendment is moved by Government to enable them to consider the effect of this taxation on cinemas. It was represented by cinema proprietors that the industry is not in a flourishing condition; and we wish to take power, if we find that this tax should operate seriously to the detriment of that industry, to remit wholly or in part the duty leviable on the cheaper seats. But, Sir, it is clear that the power which would be taken under this amendment would extend not merely to cinemas but to other entertainments also which it is proposed to tax.

In this connection it is my duty to remind the House of the decision to which we came yesterday to raise the admission duty on race-course from 25 to 50 per cent.

Mr. C. M. GANDHI: Not to raise but to confirm.

The Honourable Mr. H. S. LAWRENCE: Confirm contrary to the advice of the Government. However, Sir, that is not a serious difference. I would ask the House carefully to consider the result of the action they have taken. This House has been informed that it is the intention of the Government.....

The Honourable the PRESIDENT: Are you now going to the question of 50 per cent. ?

The Honourable Mr. H. S. LAWRENCE: Merely in so far as it affects the present amendment.

The Honourable the PRESIDENT: The Honourable the Finance Member would be in order to say what the effect of it on this amendment may be, but I cannot allow him to criticise the decision of the Council.

The Honourable Mr. H. S. LAWRENCE: Sir, I am merely putting forward before the Council certain considerations which will affect their decision on this amendment.

The Honourable the PRESIDENT: The Honourable the Finance Member will be perfectly in order in doing so, if he will avoid all criticism or disparagement of a decision already arrived at by the Council.

The Honourable Mr. H. S. LAWRENCE: I am not disparaging the action of the Council. I am merely putting forward certain arguments affecting the amendment before the Council.

May I say, Sir, that it is the intention of Government to raise from the Turf Club a considerable revenue from the payments made into the totalizator ? The amount of the money paid into the totalizator will be computed and a share of it will be taken. Negotiations are in train with the Turf Club as regards the amount. It is clear, Sir, that the amount that may be obtained from the Turf Club by a share of the money paid into the totalizator must be determined on consideration of the financial position of the Turf Club. We must therefore take into consideration the amount that will be obtained from the Turf Club by the entertainments duty. If the total amount that the Turf Club will be able to pay be $X + Y$; then if $X$ is greater $Y$ will be less. Government had proposed to levy something approximating 2 lakhs of rupees by admission fees. The Council now proposes to take 4 lakhs. It is I think reasonable that if we levy a greater amount from admission duty, that amount should be taken into consideration in assessing the share of totalizator receipts. That, Sir, is the position, and Government wish to make it quite clear that if and when the negotiations with the Turf Club are completed,

[Mr. H. S. Lawrence]

and it is decided how much more they can secure from the Turf Club then, if this amendment is accepted by this Council, it will be within the discretion of Government to consider at what rate the admission duty may be fixed. But they will not take any action in that direction until the Council has been informed of the result of the negotiations with the Turf Club. So that this power, if the Council agrees to place it in the hands of Government, will not be exercised now in the sense that we go back upon the decision arrived at by the Council. The Council are aware that the Government attaches the greatest importance to the passage of this bill for the benefit of compulsory education. This Government has taken this step to introduce compulsory education at a time when no other Government in India has had the courage to face the immense financial difficulties involved. Government, as the House is aware, is not possessed of abundant resources. We are faced with financial stringency of a serious character. Nevertheless, we have taken courage to go forward in the interests of the people, and we hope that the Council will help us to secure the revenues necessary by the best arrangement possible. The Council yesterday rejected the advice of the Government on a purely fiscal matter even with the clear indication that Government had decided that that was the best method by which the greatest amount of revenue could be obtained for the financing of primary education. Now the duty for other entertainments has been fixed at about 20 per cent., but the tax which this Council has fixed for the race course is 50 per cent. That is a differentiation admittedly made as a penal measure. And that is a fact which Government will have to take into serious consideration. I do not think that it is necessary for me to say much more. The penal taxation of an important industry is without precedent in the history of this Government. I say, Sir, that raises a new situation which the Government propose to take very carefully into consideration. But if this power which is now asked for for the remission wholly or partly of certain duties is accorded it will not be utilised at once to exempt the race-course, but after the share of the totalizator has been computed Government propose to consider their line of action—whether to utilise this power or not.

As I said, Sir, in the opening remarks the origin of this amendment related to taxation imposed on lower seats and that alone.

Rao Bahadur R. R. KALE (Satara District): I understand, Sir, that the power is now sought to be taken to remit the duty after having collected it, and may I ascertain whether the House can empower Government to remit the duty already collected ?

The Honourable the PRESIDENT: If the House can empower Government to collect a tax, it has equally the power to empower Government to remit a tax in any particular case. It is not a point of order. It is a question for the House to decide.

Mr. G. B. TRIVEDI (Thana District): Sir, this House is very much obliged to the Honourable the Finance Member for the frank way in which he has tried to clear the suspicion which was in the minds of all of us since last night that Government were bent upon having this amendment passed. I am, therefore, glad that the Honourable the Finance Member has been frank with this House, and I shall also deal with this amendment very frankly. Shall we, Sir, also be frank and state that this is only an attempt on the part of Government to thwart a decision of this House which has been fought tooth and nail ? If Sir, Government care for the opinion of non-official members,

[Mr. G. B. Trivedi]

they will see that they are by a large majority against any attempt to reduce this 50 per cent. to 25 per cent. It is only now that we hear from the Honourable the Finance Member that Government will examine the question of taxing the totalizator. When therefore there is a large majority of non-official members on the side of not reducing this 50 per cent. is it right on the part of Government.....

The Honourable the PRESIDENT: Order, order. Whether it is passed by a large majority or by a small majority it is all the same a decision of the Council.

Mr. G. B. TRIVEDI: So, I submit that the attempt of Government now is to go in an indirect way. I say, Sir, if Government want this 50 per cent. to be reduced, why should they not be frank and say, we want the decision of the Council in our favour or we will ask His Excellency to exercise the right of veto? Why not be frank and say that Government are intent upon favouring the Turf Club? Why take this indirect method of thwarting the opinion of the Council? Take the more sensible course that is open to you and this Council will know what the Government thinks of its decision.

Then we are told that Government are thinking whether they should tax the totalizator; and in what way? Then I say why are Government so very anxious about helping the Turf Club? The present action of Government in bringing in this amendment at this stage enhances the suspicion that has been expressed by my honourable friend from Bombay, North—I mean Dr. Batliwala—that Government are unduly favouring a certain association for reasons not very plain to this House. It is therefore due to Government that they should try to remove this suspicion. But I find instead of that, they are taking away by one hand what we have got by another, which confirms the suspicion in the mind of this Council. It is certainly not befitting the good name of Government and I therefore oppose this amendment.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Mr. President, I join my honourable friend from Thana in thanking and congratulating the Honourable the Finance Member for his frankness. I also congratulate him for, for want of a better word I would say, tickling our fancy on the question of cinemas in such a skilful way for bringing in more money. The whole object which is sought by this amendment is to nullify the whole Act and the effect of our yesterday's vote, and to take the whole power into the hands of the Government in the executive department. What does the Government do now? They want that within certain limits they may not raise the tax, but they can reduce the tax. They can remit wholly or reduce the tax to any amount. Sir, it is unfair that this House should be treated in this way, when we have absolutely come to a certain definite conclusion and when it is only the House that can go back upon the decision it has arrived at. If Government finds that the position taken by the House was not right, the best course for Government would be to bring in another amending bill at a later stage and explain to the House the whole situation, and I think the House will not refuse to reconsider their decision if they are satisfied, as they did on the last occasion in another case. I oppose this amendment on this ground, and I do not see why so much additional power should be entrusted into the hands of the executive department of Government. I do not wish to take up the time of the Council. I join my honourable friend from Thana in what he has said and I think the House will do well, both for the sake of the public and for self-respect to itself, in throwing out this amendment at once.

The Honourable the PRESIDENT: On the question of the relevancy of some arguments advanced as to which I have allowed some latitude, I should now point out to the House how the bill as it is stands in relation to the amendment. There is sub-clause (3) to which no amendment is suggested. It reads:

"The Governor in Council may, by general or special order, exempt any entertainment or class of entertainments from liability to entertainments duty."

Thus, under this sub-clause, Government have the right to exempt even the race-course. It says "may, by general or special order, exempt any entertainment or class of entertainments from liability to entertainments duty".....:

Mr. B. G. PAHALAJANI: Wholly.

The Honourable the PRESIDENT: May be wholly or may be partly on the ground that the greater includes the less. I am not concerned with that. It is for the House to debate that point and decide. All I say on a point of order is that arguments should be addressed to that point and not go beyond it.

Sardar V. N. MUTALIK: May I submit, Sir.....

The Honourable the PRESIDENT: The honourable member has already spoken once and he cannot speak again.

Mr. C. M. GANDHI (Surat City): Mr. President, in rising to oppose the amendment of my honourable friend the Finance Member I would point out that the remarks of my honourable friend the member for Thana on this occasion were uncalled for. At the same time, I cannot help thinking, in view of the statement frankly made by the Honourable the Finance Member, that the amendment is premature and ought not to be pressed at this stage. His point is that Government has no idea of either wholly or partially remitting the duty on the race-course till Government has carried on their negotiations with the Turf Club and come to a result as to what share they would get out of the profits of the totalizator. Government also say that after that, they will inform this Council of it and if this Council is to be taken into confidence and consulted after that information is given to it as to whether the negotiations should be accepted or not, then I say the amendment is premature. The Honourable the Finance Member can wait till the result of the negotiations is known and this Council can then be taken into Government's confidence. After that, if, as a result of the consideration of that proposition, the Council comes to the conclusion that it is better to accept the result of the negotiations and remit 25 per cent. the Council would be quite prepared to do it and there will be no difficulty in the way of the Honourable the Finance Member in doing so as I have stated. Why, then, create unnecessary suspicion in the minds of the people who have begun to look at the actions of Government a little askance? If the amendment was prompted merely by a solicitude for the interests of the cinema industry, nothing would be simpler than confining the amendment to cinemas alone. So far as clause 3 is concerned, my impression is that the reason why this clause was included in the bill was with a view to give power to Government to exempt certain classes of small entertainments which could not be all thought of and regulated by this statute and which required to be exempted, if power was not to be given in the hands of the police to harass the ryots. I am referring to cases of merry-go-rounds and such other small entertainments which admit people for small payments and it would not be possible to regulate

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such things specifically in the bill. Therefore, it was intended to give Government power to exempt all those entertainments which were not specifically covered by the provisions of the Act and it was not intended to cover any entertainments which have been specifically dealt with by the Act, and I think that interpretation will be surely acceptable to every one. The clause gives Government power only to exempt entertainments not specifically dealt with by the Act, namely, merry-go-rounds and such other small entertainments which we meet with in fairs, etc., which cannot be regulated by statute, but can better be regulated by executive orders of Government under certain rules. That being the case, Sir,—and I think from the statement which the Honourable the Finance Member made that there is no doubt about the intentions of Government on the clause,—the Honourable Member in charge would be very well advised to withdraw this amendment and to bring a small amending bill at a later stage when the result of the negotiations between Government and the Turf Club is known ; otherwise, the Council and some of us who are more distrustful about Government' s actions will feel distrustful an to the object of Government in this amendment. I therefore hope that this amendment will not be pressed.

The Honourable Mr. M. H. W. HAYWARD : Mr. President, I am not directly interested in this amendment because this is an admission to entertainments duty bill and belongs primarily to the Finance Department, but I am indirectly interested in this amendment to see that my honourable friend's department does not encroach upon my duties of controlling race-courses under the Race-courses Act which is the business of the Home Department. Now, Sir, the tax on admission to entertainments has been generally fixed at about ten to twelve and a half per cent. but there was a proposal in the case of race-courses to fix it at 25 per cent. Presumably as this was a financial bill, the proposal to differentiate in the case of race-courses and to tax them at the higher rate was because it was felt that they were in a position to pay, that they were financially in a position to pay, that they were richer, that they were better off and therefore it was fair and right that they should pay a higher proportion of the tax which has been levied for this very important and great purpose of providing money for carrying out primary compulsory education of the peoples of this Presidency. This House has however decided that it would be safe to tax them at even a higher rate than 25 per cent., that is to say, at 50 per cent. That decision has been come to after a very full debate, a debate which resulted in a most interesting tie which I was instrumental in converting into a vote for the majority. So that there is no doubt now as to what is the general opinion of the House. This being a financial bill, we must presume that the House has so decided simply and purely on financial grounds and that in no way do they wish to go outside the bill as put before them by the Honourable the Finance Member, and that they do not wish to entrench at all upon the department of morality and its instruments the licenses under the Race-courses Act which are under the control of my department, the Home Department.

Now, Sir, it is just possible(I do not say it is probable) but I cannot help feeling it is just possible that it may turn out that 25 per cent. was financially a better proposal than 50 per cent. and in that case it seems to me that it is very desirable that we should be in a position to say that 25 per cent. is all that we can get and all that they can pay on admission money and for this reason

[Mr. M. H. W. Hayward]

particularly that in the moral department we have under contemplation further taxation on the profits of the Turf Club under the provision which enables us to impose certain conditions in the licenses which we grant annually to the Turf Club for the.....

Mr. C. M. GANDHI: We are not discussing the terms on which the Race-courses Licensing Bill has been passed.

The Honourable the PRESIDENT: It is relevant in so far as it is an argument which is brought forward in order to convert the House to a particular decision on the question now before the Council, that Government proposes to do a certain thing and therefore the Council should not vote against them in this question. In that way it is perfectly relevant.

The Honourable Mr. M. H. W. HAYWARD: I will come more directly to the point and make it clear. I am very much afraid that this 50 per cent. taxation on admission money to race-courses will be flaunted in my face as a reason why I should not do what I very much want to do and that is, support my honourable friend in taking a large share of the profits on the totalizator. Some of the visitors go there simply to enjoy a pleasant afternoon sitting in the shade and watching the races, and taking their tea. But there are others who go there simply to try to make money. I am much more concerned in taxing those people who go there for betting. I want particularly to put the tax on the latter class, the people who spend the much larger sums that pass through the totalizator—I want to have a share of those sums. If honourable members desire to restrict betting, they will be much more likely to do so by taxing those people.

The Honourable the PRESIDENT: The Honourable the Home Member's point, though relevant, should not be pushed too far beyond the limits of the bill. The question of betting is not germane to the question now before the House.

The Honourable Mr. M. H. W. HAYWARD: I have only to say this therefore that I hope the House will pass this provision in order to give me a free hand in my negotiations for putting a substantial tax not on entrance to the course but on betting on the races.

I would like to add this further argument that if it should prove that we have gone a little too far in our experiment—and I hope members will remember that this is experimental taxation—it would be well to leave open a door for retreat. We do not quite know what the effect is going to be. It is always very difficult when you are introducing a new tax to be quite certain what the results are going to be, whether it will bring you in a large sum of money or whether the effect will be to kill the taxed trade. I do not think the House therefore would be very well advised in this experimental taxation if it refused to pass this amendment. If it should clearly prove that we have, either as regards cinemas or as regards any other entertainments not excluding racing, put the figure a little too high, it is important we should have a ready means of arranging matters satisfactorily without the delay of an amending Act. I do think that in experimental legislation, this is a very wise provision. It is a provision which will not be abused. It has been frankly stated that it is not going to be used to get round any decision of this House and no needless suspicions on that score need be entertained by any members of this House. It has been sufficiently indicated that some members of this House entertain a suspicion that this amendment has been brought forward in order to get round yesterday's

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resolution of the House. Let me request them to remember this plain fact, that this amendment was on the table about three weeks before yesterday's resolution. It was however noticed after that resolution, that it would also affect that resolution, and my honourable frieno thought it only fair therefore to point this out in order that there should be no mistake about it, and he therefore frankly stateo that we are not going to use it to get round the decision of the House. We are only going to use it if at all for the specific purpose of not making it difficult for me to do my duty under the Licensing of Race-courses Act in the Home Department. I submit that this is a very necessary safeguard to introduce into this Act. I think as businessmen sitting here to pass a financial Act it would be wise to introduce this provision. It will not be abused: on the other hand, it will tend to give very considerable confidence in our proceedings to the general trade of Bombay. It will show that we have no intention whatever of discriminating unfairly between one trade and another. All we want to do is to tax everybody fairly, one trade like another trade, whether it be cinemas, theatres, races, or any other kind of amusements. I submit it is a most important matter to provide this safeguard for them and to show that this Council would never countenance imposing taxation unfairly, so as to restrict one trade in favour of another. I think that the retaining the confidence of the great commercial interests of this great city should be a very powerful reason to impel this House to accept this amendment which has been proposed by my honourable friend the Finance Member.

Mr. KANJI DWARKADAS: Mr. President, I am afraid I cannot endorse the opinion which my honourable friend the Home Member just now gave that this provision will not be abused by Government. Only very recently, he himself, to a very great extent, is responsible for a misuse of the powers vested in the Governor in Council, and I shall give an example of it. Under the terms of license, to which he himself referred, the Governor in Council has now permitted the Western India Turf Club to open a third enclosure, and I should like to ask the Honourable the Home Member.....

The Honourable Mr. M. H. W. HAYWARD: I deny that, Sir. No permission has been specifically given.

Mr. KANJI DWARKADAS: My information.....

The Honourable the PRESIDENT: After that contradiction, I do not think the honourable member is justified in again repeating and insisting upon his statement. The statement of the Honourable the Home Member contradicting the honourable member's statement must be accepted for the purposes of this debate. That is one of the necessary courtesies of debate in every legislative body. If the honourable member for Bombay thinks the contradiction should be met and tested he should bring in a substantive motion as to it on a separate occasion by a proper notice.

Mr. KANJI DWARKADAS: I am very glad indeed that the Honourable the Home Member has given this contradiction that no permission has been granted to the Turf Club to open a third enclosure. I now, take it, Sir, that when the Bombay races start on the 9th of this month there will be no third enclosure and.....

The Honourable the PRESIDENT: Order, order. We have nothing to do with that; it is irrelevant. The honourable member should confine himself to the question before the Council.

Mr. KANJI DWARKADAS: I hope, Sir, that the Governor in Council will not now grant the permission to open a third enclosure.

The Honourable the PRESIDENT: Order, order. The honourable member seems to be disobeying the ruling of the Chair. If he has nothing to say that is relevant to the question before us, I should call upon another honourable member to address the House.

Mr. KANJI DWARKADAS: I am very sorry, Sir. In all ordinary legislation, such powers are generally given to Government. But my honourable friend the Finance Member will permit me to be as frank as himself, and to say that when he pointed out to us that under these powers Government may remit to some extent the duty imposed on the Turf Club and admissions to the races, my reply to the Government would be that I am not prepared to accept the amendment on those grounds. I therefore join my honourable colleagues in opposing this amendment. This amendment conflicts with the generous terms of the proposal to safeguard the interests of the poor citizens of this Presidency, so that their luxuries—if they can be called luxuries—may not be unnecessarily taxed. The select committee in its note on clause 6 (3) of the bill says:

"We are of opinion that certain classes of entertainments, swings, merry-go-rounds, etc., should be exempted from the provisions of the Act, but as it would be difficult to specify the particular classes which should be exempted, we consider that the general provision for exemption in this sub-clause will prove sufficient."

It is because we wanted the poor classes not to be taxed that we inserted this clause, and not because we wanted the Turf Club to go scot-free, or that the tax on their tickets should be remitted to a certain extent. I therefore think the House will be well advised in throwing out this amendment.

Mr. IBRAHIM S. HAJI (Bombay City): Mr. President, I also rise to oppose the amendment of the Honourable the Finance Member. Sub-clause (3) of clause 6 reads as follows:—

"The Governor in Council may, by general or special order, exempt any entertainment or class of entertainments from liability to entertainments duty."

The reason why the select committee gave its consent to the retention of the sub-clause as it is, is given in the notes on clauses appended to the select committee's report. We understood, and we had a promise from the chairman of the select committee, that the Government would only exercise such power in the case of particular kinds of entertainments for the poor people which could not come within an enclosure, and would therefore have no admission tickets, such as swings and merry-go-rounds in the slums of the city. There is no enclosure for them, and there is no charge for admission, only a certain amount being paid to have a ride on the merry-go-round, etc. The intention of the select committee was that only such entertainments should be exempted by some means, and these means are provided in the bill with the consent of the select committee, by giving the Governor in Council power to so exempt. Now, by this amendment the House is asked to give further powers, powers which were never considered for a moment in the select committee, and as to which no suggestion was put forward by Government. We had no idea that Government would come so soon to this Council with an amendment of a nature which this House is unable to understand even now. The only explanation seems to be the one given by the Honourable the Home Member. He says that he is the father of this amendment and solely responsible for it, because he is now negotiating with the Turf Club for taxing the totalizator. The totalizator is so far exempted from the purview of this bill. We have taxed the

[Mr. Ibrahim S. Haji]

race-courses to the extent of the admission fee. Only the people going there will be taxed, but the people taking part in the betting are still exempt from this tax. The Honourable the Home Member tells us that his negotiations with the Turf Club would fail if this amendment of the Honourable the Finance Member is not carried. I really cannot see any connection between the two bills; one is before the House, and we know nothing about the other bill. We are told that negotiations are going on. What of that? If they are going on, so far so good. I do not understand how they will be affected by this amendment. If people are going to be taxed for going to the race-course to the extent of 50 per cent. it is well and good. If the people are going to be taxed for betting, it is quite a different proposition, which the House will consider when it comes before it. These two questions must be looked at differently. Taxing the totalizator is not taxing the Turf Club, but it is taxing the people betting on the totalizator. If the number will be reduced by so taxing it is well and good, but I believe that the number will not be reduced. I ask the House to see that the Government is unwise in making a retreat from the undertaking they have given in the select committee. They mention in their report on clause 6, sub-clause (3), as follows:

> "We are of opinion that certain classes of entertainments, swings, merry-go-rounds, etc., should be exempted from the provisions of the Act, but as it would be difficult to specify the particular classes which should be exempted, we consider that the general provision for exemption in this sub-clause will prove sufficient."

I ask the House to force the Government to stick to the promise they made in the select committee.

Rao Bahadur R. R. KALE: I move the closure.

The Honourable the PRESIDENT: Before I accept the closure, I wish to know whether sub-clause (3) existed in the original bill. (An Honourable Member: It did exist.) The terms are large enough to include any kind of entertainment, not necessarily swings and merry-go-rounds. The Council is not bound by what has been stated by the select committee. In the speech of the Honourable the Finance Member on the second reading of the bill, nothing was stated whether the view of the select committee has been accepted by Government or not. I only draw the attention of this House to that point. There should be no leap in the dark.

The Honourable Mr. H. S. LAWRENCE: Sir, the select committee states in the report:

> "We are of opinion that certain classes of entertainments, swings, merry-go-rounds, etc., should be exempted from the provisions of this Act, but as it would be difficult to specify the particular classes which should be exempted, we consider that the general provision for exemption in this sub-clause will prove sufficient."

The Honourable the PRESIDENT: That is what the select committee says; but the Council is not bound by it. If a clause is based upon a certain understanding arrived at during a debate, then the understanding is morally binding on the House. To circumvent it would be improper, and it is my duty to warn the House against what may be "a fraud upon power" as the lawyers call it, using the term "fraud" in its innocent sense of an understanding broken and a statute strictly enforced.

The Honourable Mr. H. S. LAWRENCE: I submit that the Council is fully apprised of the fact that the terms of the clause to which no amendment has been proposed are entirely general. Government has entirely a free hand

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in exempting any sort of entertainment. I do not think, therefore, there can be any question of 'fraud on power'.

The Honourable the PRESIDENT: I would ask the Government to make it quite clear.

Mr. C. M. GANDHI: In order to make the point quite clear, the select committee appended this report. The exemption is intended for such class of entertainments as merry-go-rounds, etc.

The Honourable the PRESIDENT: I am perfectly aware of that; but the select committee is not the Legislative Council. It is the Council that has got to pass this bill. The select committee may say that they have restricted the provision to such class of entertainments as merry-go-rounds, etc, and the difficulty of draftsmanship may have come in.

Mr. C. M. GANDHI: Will you allow me, Sir, to move a proper amendment?

The Honourable the PRESIDENT: We have gone farther than that. There are the Standing Orders which must be obeyed.

Mr. C. M. GANDHI: Now, you have pointed out the defect I wish to see, Sir, that we are not taken in.

The Honourable the PRESIDENT: I have given the warning. Now let the discussion proceed.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Mr. President, it does appear to me that the Council is taken by surprise by a Government Member moving such an amendment. As a member of the select committee I put it to the Honourable the Finance Member who was the chairman of that committee to say whether he did not refer this point in order to see that the bill without this provision might work hardship to certain forms of entertainments, to the Commissioner of Police. The bill as originally drafted did not contain this provision and this clause was introduced with the specific object of giving power to Government to exempt only certain forms of entertainments then not mentioned in the bill.

Now, I put it from the constitutional point of view,—from the point of view of law-making,—whether there is any example in any of the civilised countries where you pass an Act in a legislature imposing taxation—I include these taxation bills also—and then as it were give a *carte blanche* to the executive to say whether they will levy it or not. I can understand the Government asking for power to exempt certain classes of entertainments which the legislature had not in mind when they passed the Act. But to ask for power to scratch the whole Act if necessary does appear to me to be playing with the Council. We are here rather serious and we ought not to be taken in unawares. Our object is only to give relief to entertainments like swings, merry-go-rounds, etc. I am putting it to the Council whether they want to introduce a provision by which they can give power to the executive to nullify the whole Act. Even Government Members will have to think twice before they propose such a thing. I can quite see that in the hurry of the moment the legislature may sometimes pass a provision which the executive Government may find out does not fit in with the actual conditions, that it worked very great hardship when put into force, and then come to the Council to remove any injustice or unfairness to anyone. Then, I think this Council can deal with that position. But I trust this Council

[Rao Bahadur G. K. Chitale]

will unanimously set its face, irrespective of the wishes of the Members of Government, against any attempt to introduce in a legislation a special provision to enable the executive to nullify the whole Act. I may say also that all these statistics pertaining to this fiscal measure are in the hands of Government. Some of them have been disclosed, but as practised lawyers we know that unless we have all the figures and all the information available it is very difficult to judge. Let the Act be put into force ; let us see what its effects are ; and if it affects cinemas, theatres or race-courses prejudicially, then the Council will be prepared to remove the injustice. I feel strongly that the position of Government itself will be very much weakened by the position that they want now to take up. We do not want to see any unfairness done to anybody and we shall scratch the Act by means of another Act if we see that any unfairness is done to anybody. But do not create such a precedent by which a tax sanctioned by the legislature could be taken off by the executive. I put it again : is there in the United Kingdom, or in Bengal, in the Amusements Act, a provision of this nature ? I know there are certain provisions exempting complimentary tickets, certain classes of entertainments, etc., but I have not yet seen any clause put in so far as I know—I plead my ignorance if it is otherwise—by which the executive could go behind the whole Act. I say, Sir, the position is intolerable, and the Council will be well advised to throw the amendment out.

Rao Bahadur R. R. KALE (Satara District) : Sir, sub-clause (3) was added by the select committee. It was not in the original bill. But it has not been printed in italics, and it therefore gives one the impression that it formed part of the original bill. I hold a copy of the original bill and I do not see that clause 6 contains this sub-clause.

The Honourable the PRESIDENT : All clauses in italics are the only clauses inserted in the select committee. All other clauses were in the original bill as introduced.

Rao Bahadur R. R. KALE : Therefore, I say, Sir, that this new clause is added by the select committee. The intention of Government as explained by my honourable friend from Ahmednagar was that it should govern only cases of small amusements and should give them some general power to deal with them. I am only going into the genesis of this amendment. I mean, what has led the Honourable the Finance Member to propose this amendment is quite plain, because the select committee made this 50 per cent. and afterwards Government for reasons best known to themselves wanted to reduce it to 25 per cent. and there Government were defeated, and they now bring in this amendment as a trump card. (Voices from Government Benches : No, no.) However now that we have got that amendment negatived, it has been urged that the necessity of this amendment is that there may be necessity later on to take action by way of reduction of certain taxes when profits from other sources in connection with the race-course might be obtained by Government. Well, Sir, the whole difficulty has arisen by keeping that matter behind the screen. If Government had brought in in this bill or by way of another taxation bill, say a betting tax, then the whole matter would have been different.

The Honourable the PRESIDENT : Now the honourable member is going back to his old point. I have ruled that the subject he now refers to is beyond the scope of the bill.

Rao Bahadur R. R. KALE: I am only referring to that because the Honourable the Home Member made a remark that he has got the power to appropriate certain profits and he will be handicapped if Government have no power. My submission is that Government want to retain some power in their executive capacity to themselves and they do not want to come to this Council for that power but they want power from the Council with regard to that matter, because they say they have got to deal with it and that they will be hampered. My submission is that if these things had been laid before the Council, the Council would have known whether it is going to get more money and then it would have been justified in giving this additional power of remission to Government. That would have been certainly the proper course to take. But Government somehow or other tried to have that power. They say they are seeking to have a bill to deal with totalizators, and they bring in a series of arguments to induce this Council to give them the power of reducing what we have got, namely, the tax on visitors. They say they will have another profit, not by way of taxation but by another way. The Council must remember that they have not said that they will bring in another taxation bill. If Government were to give that undertaking that they were going to bring forward a bill for that purpose, then perhaps we will be in a position to know the facts and then knowing the reasons for which that bill is being brought by Government the Council would be in a position to grant this power. If the Council is told that there is a particular way of getting money the Council will agree to it. My submission, therefore, is that this amendment is premature and therefore the Council will be well advised in not passing this amendment.

Mr. V. A. DABHOLKAR: Sir, I do not agree with my honourable friend, the honourable member from Ahmednagar, and I do not think that there is any necessity for expressing any surprise or to entertain any doubts as regards the amendment moved by the Honourable the Finance Member. I construe the amendment as a safe measure. Mr. President, let me put it to you, that whatever heavy tax this Council is going to levy, if in the opinion of Government that tax is too heavy for a certain class of entertainment or entertainments, and if the entertainment suffers, Government has got the power to remit that tax, if this amendment is accepted. It is quite plain from the report of the select committee that they have reserved the power of exemption to Government because they were of opinion that there were certain classes of entertainments which require to be exempted from the operation of this Act. But the present amendment does not raise the question of exemption, but here it is a question of remission. Therefore taking into consideration the heavy taxation that has been levied by this Council, I support the amendment moved by the Honourable the Finance Member.

Mr. B. G. PAHALAJANI (Western Sind): Sir, I had no intention of rising to speak to this amendment were it not for the Honourable the Home Member holding out to the House a sop that the Government may reduce the taxation on cinemas if they were unable to bear it. I am glad for one thing, and that is that the Honourable the Finance Member has cleared the doubt that had arisen in the mind of this Council on this amendment. I think I am entitled to accept the version as to the intentions of the Government as laid before this Council by the honourable mover of this amendment. It is clear from all that declaration that at the back of the mind of the Government lies the tax of 50 per cent. on the Turf Club admission and that Government

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requires it to be reduced in certain cases. I do not think the Honourable the Finance Member in moving this amendment has got in his mind cinemas and other entertainments. I do not fear saying that Government are putting this clause not for the purpose of safeguarding cinemas and other like entertainments but for the purpose of enabling them to interfere, to the detriment of the revenue of this Province and to the reputation of this House, with the decision this House has arrived at yesterday, by which it has allowed 50 per cent. tax on admissions to race-course.

Now, Sir, I will place before this House their powers and position possessed in the legislation by this House, so far as finances are concerned. The Honourable the Home Member tells us that this power of reducing the 50 per cent. on the admission to the Turf Club will not be exercised by Government without informing this House. Of course we are obliged to him for the assurance, but he forgets that this House will not have any control over the action of Government in the line of reduction of taxation, will not have the power of voting on it except by a resolution, which is a mere recommendation and no more. This House is asked at present to give up its absolute power of throwing out the amendment and to accept afterwards the offer made by the Honourable the Finance Member to be made cognizant only of the action of Government. Compare, Sir, the Government's proposal on the one side to have power to do as they like by executive order, with the action of yesterday's voting, on the other side. On the other side take the disadvantage that this House will then have of sitting in sullenness if it dislikes the action of the Government and be able to do nothing. Further again, you will be pleased to observe, and this House knows, that according to the Government of India Act none of the members of this Council who do not form part of the Government or who do not form the component parts of the Government can frame any finance bill for levying any taxes. Compare, therefore, Sir, the two positions. If this amendment is not withdrawn, the result is that Government will have power to exempt any portion of, and therefore reduce, the taxation. The Honourable the Finance Member said that Government was negotiating with the Turf Club and that when the result is known as to the amount that will be derived from the totalizator, they will fix a reasonable taxation upon the resources of the Turf Club, either on the gamblers or on those who go there for other purposes, and see if they should reduce the 50 per cent., but why is the Government anxious to take the power to reduce or change the 50 per cent. taxation which was sanctioned by the House yesterday? If the Government are able to convince the Council by facts and figures that the amount recoverable by admissions is large and that the totalisator on being taxed will entitle them to a reduction, the Government can come in again for suitable reduction. The Government would then be in a position to determine what reduction is necessary. Let that be done by legislative enactment and not by executive orders. My honourable friend from Ahmednagar rightly pointed out, he as well as I challenge the Government to show any instance anywhere where such power is given to the executive Government by the same enactment that gives the power to tax. I therefore submit, Sir, that this House should stand strongly against this amendment which, if passed, will nullify, the Act itself or the measure that is proposed.

Now, Sir, I cannot understand again the remark that was made yesterday that more taxation on gambling will reduce the income of the Turf Club. I

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have authority for the statement that taxation on vices, taxation on drink or gambling, does not in any way affect the amount of income arising from them. I have the authority of the Honourable the Finance Member himself. On the 3rd of August 1921, when the policy of this Government in the Excise Department was under discussion and when many members of the Council rose to say and even expressed an opinion that a rise of taxation, excise taxation, will decrease the consumption of liquor and save poor people from the temptation, the Honourable the Finance Member kept before this House a chart of figures of four years' consumption of liquor and four years' income. He said that from 1917 to 1921 taxation upon that evil had in no way reduced the consumption and therefore by rise of taxation the income rose from 1 crore to 3 crores. A very graphic and satisfactory explanation was then given by him as to why the comsumption of liquor from 1917 to 1921 remained undiminished in spite of heavier taxation. His words make it clear that an evil that offers temptation cannot be checked by this process of going on increasing taxation. And the Honourable Member who has control of these drinks and who himself expressed his views definitely against prohibition felt the same and said so.

The Honourable the PRESIDENT: I think the illustration is going beyond the legitimate limits of an illustration and is becoming a main argument.

Mr. B. G. PAHALAJANI: I can thus assure the House that no amount of taxation or increase of taxation is going to affect the income that will arise from the gambling or betting or admissions to these gambling places. Therefore, Sir, I do not understand why the Government should feel nervous and take this power to themselves. We cannot, under the circumstances disclosed by the Honourable the Finance Member, accept the statement of the Honourable the Home Member that the Government has at present no intention of interfering by remitting a part of the tax. The Honourable Member in charge has given the motive for this amendment and I think, Sir, it is due to the self-respect of this Council that the Government at present, armed as it is with great authority, should withdraw this amendment and bring in another bill if necessary. Let us not go to a division on a matter in which everybody feels injured by the present action of Government.

The Honourable the PRESIDENT: There is a tendency now of arguments repeating themselves. I leave it to the House whether the debate should go on.

Mr. G. C. BHATE: I move the closure.

The Honourable the PRESIDENT: I accept the closure.

The Honourable Mr. H. S. LAWRENCE: Mr. President, when I pointed out to this House that the effect of passing this amendment would be to give certain power in the hands of Government to exercise their discretion in regard to the admission to the race-course, I did not suppose that I should so entirely divert the attention of this House from the main and primary purpose of the amendment. That amendment, Sir, was drafted, as I mentioned in my opening remarks, solely with a view to righting any trouble, any injury, likely to be caused to the cinema industry by the imposition of a tax on tickets below six annas. That was the sole purpose of the amendment. When I find a member who wished to exempt all seats below and even including 12 annas entirely opposed to this amendment, that merely gives an indication of the suspicions that exist in the minds of honourable members against the simplest and the most innocent actions of Government. Since last

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evening this House has shown suspicions of Government in regard to the race-courses. I therefore thought it my duty to make it perfectly plain to this House that the power which we propose to take for another purpose may conceivably be used in regard to that resolution which was passed yesterday. That is the only reason why I made that suggestion. I do not wish to be understood to say that Government intend to use it in that way. I merely pointed out that should you decide to give Government this power, to put in the hands of Government an instrument which they can use for this purpose, then there will be no cause for complaint if after full consideration in process of time, if after having settled up their negotiations with the Turf Club regarding their share of the receipts of the totalizator, Government decide to utilise this power to achieve that end. I hope I have made quite plain what I failed to do in my opening remarks, because the honourable member from Sukkur said somewhat ambiguously that he had not heard me saying that the object of this amendment was to exempt the lower grade of seats in cinema theatres whereas that was the one point I tried to convey to the members of this House. I wish to repeat once more that the object of this amendment is to give Government power to ameliorate the condition of the cinema industry should this tax be found to be injurious to them in any way.

In regard, Sir, to the general terms of sub-clause (3) of clause 6, which stands part of the bill under discussion and to which no amendment has been proposed, some doubt appears to exist in certain minds whether that sub-clause was inserted in the select committee or formed part of the original bill. I have here a copy of the bill as published in the *Bombay Government Gazette* of the 16th of September 1922, and those words stand unchanged from that date. It is certainly the intention of Government to make use of that power of exemption in the manner stated in the report of the select committee, but Sir, I do not quite know how and why discussion of that part of the clause came into this amendment, the matter before this House was solely to decide whether or not they would give Government power of wholly or partly remitting the duty leviable under clause 3 (1) on payment for admission .....

The Honourable the PRESIDENT: If that was the intention, the proper thing for Government would have been to have it as a separate clause, as sub-clause (4).

The Honourable Mr. H. S. LAWRENCE: I agree with you, Sir, that it would have been clearer and plainer, but the legal draftsman placed it in that form and we put it in a manner which we were advised to do by our legal adviser.

The Honourable the PRESIDENT: Unfortunately the point crops up at the tail end of the whole discussion. I proceeded upon the basis that this ought to form part of sub clause (3) or else I should have allowed a motion to bring it in as clause 4.

Question put. House divided. Ayes 39; Noes 42. Amendment negatived.

*Division No. 3.*

Ayes

| | |
|---|---|
| ADDYMAN, Mr. J. | BULLOCKE, Mr. A. GRENVILLE |
| BELL, Mr. R. D. | CADELL, Mr. P. R. |
| BHUTTO, Khan Bahadur S. N. | COCKE, Mr. H. G. |
| BOLE, Mr. S. K. | CREBAR, Mr. J. |

Ayes—*contd.*

DABHOLKAR, Mr. VASANTRAO ANANDRAO
DALAL, Sardar Khan Bahadur ADARJI M.
DRAKHAN, WADERO MAHOMED PANAH
GAYASUDDIN JAUDDIN, Mr.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
HATCH, Mr. G. W.
HAYWARD, The Hon'ble Mr. M. H. W.
HEPPER, Sir, LAWLESS
JADHAV, Mr. B. V.
JENNINGS, Major General W. E.
KANGA, Mr. J. B.
LAWRENCE, The Hon'ble Mr. H. S.
LORY, Mr. F. B. P.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MODI, Sardar Davar T. K.
MOHIDINKHAN, Khan Saheb HAJI HAZRATH KHAN
MURPHY, Mr. S. J.
NELSON, Mr. F.
PARANJPYE, The Hon'ble Dr. R. P.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SETALVAD, The Hon'ble Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY
SINDORE, Mr. H. N.
THAKOR of Amod, Sardar NAHARSINGHJI
THOMAS, Mr. G. A.
WOODS, Mr. E. E.

*Tellers for the Ayes :* Mr. G. A. THOMAS and Mr. P. J. MEAD.

NOES

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BIRADAR, Sardar M. A.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHITALE, Rao Bahadur G. K.
COOPER, Khan Bahadur D. B.
DADACHANJI, Dr. K. E.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI
FERNANDES, Major C.
GANDHI, Mr. C. M.
GHOLAP, Mr. D. D.
GODAD, Khan Saheb ABDULLA AVJAL
GODBOLE, Dewan Bahadur K. R.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
LALBHAI AMBARAM, Mr.
LALJI NARANJI, Mr.
MOTIRAM, Rao Saheb RUPCHAND
MUTALIK, Sardar V. N.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PARULEKAR, Rao Saheb L. V.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SURVE, Mr. A. N.
TRIVEDI, Mr. G. B.

*Tellers for the Noes :* Mr. C. M. GANDHI and Rao Saheb D. P. DESAI.

Clause ordered to stand part of the bill.

*Clause 7 (Power to make rules).*

(1) The Governor in Council may make rules for securing the payment of the entertainments duty and generally for carrying into effect the provisions of this Act, and in particular—

(a) for the supply and use of stamps or stamped tickets, or for the stamping of tickets sent to be stamped; and for securing the defacement of stamps when used;

(b) for the use of tickets covering the admission of more than one person and the calculation of the duty thereon; and for the payment of the duty on the transfer from one part of a place of entertainment to another and on payments for seats or other accommodation;

(c) for controlling the use of mechanical contrivances (including the prevention of the use of the same mechanical contrivance for payments of a different amount), and for securing proper records of admission by means of mechanical contrivances;
(d) for the checking of admissions, the keeping of accounts and the furnishing of returns by the proprietors of entertainments in respect of which the duty due is payable in accordance with the provisions of section 4, sub-section (2);
(e) for the renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund;
(f) for the keeping of accounts of all stamps used under this Act;
(g) for the presentation and disposal of applications for exemption from payment of the entertainments duty or for the refund thereof; and
(h) for the exemption from entertainments duty of British and Indian soldiers and sailors in uniform.

(2) If any person acts in contravention of, or fails to comply with, any such rules, he shall, on conviction before a Magistrate, be liable in respect of each offence to a fine not exceeding five hundred rupees.
(3) Such rules shall be published in the *Bombay Government Gazette*.

The Honourable the PRESIDENT: As to clause 7, I rule Rao Bahadur Kale's amendment* out of order, for the reasons which I gave yesterday, as being beyond the scope of the bill.

Then Mr. Gandhi's amendment is:

"Add at the end of sub-clause (h) the following:—
'and of school-going children certified as such by their school authorities'."

I am not quite sure whether it is the legal phraseology; the Legal Remembrancer will kindly put it in order.

Every amendment must be precise, effective, and reasonably complete. By "school authorities" what authorities does the honourable member mean? All the teachers, or the head masters? The honourable member has not directed his attention to that. An amendment must be framed in such a manner as to become part of the clause in a precise way.

Mr. C. M. GANDHI: With your permission, Sir, I will put in "the headmaster of the school".

The Honourable the PRESIDENT: The principal authority of the school?

Mr. C. M. GANDHI: Yes, Sir.

The Honourable the PRESIDENT: I must put it to the House whether they will allow that modification to be made in the amendment. The amendment will be:

In clause 7 (1) (h), add at the end of the sub-clause the following:—
"and of school-going children certified as such by the principal authority of the school concerned."

Mr. C. M. GANDHI (Surat City): Mr. President, I beg to move my amendment. I think school-going children stand on the same footing as soldiers or sailors in uniform. If they should be allowed a special exemption on the ground that some sort of amusement should be provided for them cheaply, I say that there is no reason why a similar concession should not be allowed to school children. On that ground I have ventured to move this amendment, and I hope Government will be pleased to accept it.

The Honourable Mr. H. S. LAWRENCE: Sir, there will be considerable administrative difficulty in accepting this amendment. The cinema proprietors are given powers in regard to complimentary tickets. I think that provision will cover this case also.

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*Insert a sub-clause (*dd*):—
"The keeping of accounts and submission of returns by the stewards of a race-meeting and licensees of all moneys paid into the totalizator or to licensed book-makers and the procedure for making over the totalizator tax and the betting tax to Government."

The Honourable the PRESIDENT: Is the word 'children' defined anywhere in this bill?

Mr. C. M. GANDHI: No, Sir.

The Honourable the PRESIDENT: Does the honourable member want this to apply to girls also?

Mr. C. M. GANDHI: I want this to apply to both girls and boys.

The Honourable the PRESIDENT: I do not like to interfere; but the word 'children' is not precise. That word is not defined. I am afraid I have to rule it out of order. Every amendment ought to be reasonably effective and clear to be admissible.

Mr. C. M. GANDHI: Shall I specify the age?

The Honourable the PRESIDENT: It is not a verbal amendment and it requires previous notice. I rule it out of order as vague.

Rao Saheb Harilal Desai has sent notice of an amendment, and written to me to say that he is unable to attend the session and that he has asked some other honourable member to move the amendment in his behalf. Two honourable members came to me and said that they have got the authority to move the amendments. An amendment requiring notice may be moved only by the member who has given notice of it; but where any honourable member comes beforehand to me and states before the question comes on that he would move the amendment, I would make an exception in his case. Who is going to move the amendment?

Rao Bahadur R. M. NILKANTH: I shall move it, Sir.

The Honourable the PRESIDENT: The honourable member should satisfy me as regards the i port of the words 'previous publication'.

Rao Bahadur R. M. NILKANTH: Then allow me, Sir, to move the amendment in an altered form.

The Honourable the PRESIDENT: The amendment may be moved. If I find that it is not in order, I may have to shut it out.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Sir, the amendment which I wish to move runs as follows:

In clause 7 (3), omit the words "published in the *Bombay Government Gazette*" and insert instead the words "made after previous publication".

This amendment is very necessary because the public should know what rules the Government propose to make. This would give the public an opportunity of representing their views on the proposed rules, and offering objections if they have any. It would be an advantage that Government should be in possession of the views of the public before they adopt the rules finally. For these reasons, this amendment is necessary.

The Honourable Mr. M. H. W. HAYWARD: I would invite your attention, Sir, to section 24 of the General Clauses Act. The procedure there provided is briefly that draft rules have to be published with a notification that objectors should send in their objections within a certain time. If objections are received within that time they are considered by Government and thereafter the rules, modified if necessary, are published again and then become law. That is briefly the procedure described in section 24 of the Act.

The Honourable the PRESIDENT: All this process has to be gone through so as to make the rules operative. Well, I am afraid, the amendment, is not in accordance with that section.

Rao Bahadur R. M. NILKANTH: Then, may I be allowed to move "that such rules shall be published in the *Bombay Government Gazette* after previous publication"?

The Honourable Mr. M. H. W. HAYWARD: The Section, Sir, reads: "Where by any Bombay Act a power to make rules is expressly given subject to the condition of the rules being made after previous publication," then certain procedure should be followed.

The Honourable the PRESIDENT: But they must be made after previous publication.

The Honourable Mr. M. H. W. HAYWARD: I submit that the amendment is in order. The expression "Such rules shall be made after previous publication" implies the conditions contemplated by section 24 of the General Clauses Act.

The Honourable the PRESIDENT: Then the amendment is in order. Does Government object?

The Honourable Mr. M. H. W. HAYWARD: I have only pointed it out.

The Honourable Mr. H. S. LAWRENCE: I accept it.

The Honourable the PRESIDENT: It is accepted and I do not think there need be any debate.

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 8 (*Power to enter place of entertainment for purposes of the Act*) ordered to stand part of the bill.

Clause 9 (*Recoveries*) ordered to stand part of the bill.

Clause 10 (*Delegation of powers by the Governor in Council*) ordered to stand part of the bill.

Clause 1, sub-clause (1) (*short title*) ordered to stand part of the bill.

Preamble ordered to stand part of the bill.

Bill read a second time.

The Honourable the PRESIDENT: The bill is read a second time.

## A BILL TO CONSOLIDATE AND AMEND THE LAW RELATING TO LOCAL BOARDS BILL No. XVI OF 1922.

(As amended by the select committee.)

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I rise to present the report of the select committee on Bill No. XVI of 1922 (a bill to consolidate and amend the law relating to local boards).

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Sir, the report as it stands is not signed by the select committee and it appears that it was not adopted by the select committee. Standing Order VIII, 7, (1), says: "the report shall be signed by the members of the Committee or a majority of them." It leaves no discretion for members.

The Honourable the PRESIDENT: Is there any authority on the point that the report was not adopted? What are the facts?

Sardar V. N. MUTALIK: I was not in the select committee.

The Honourable the PRESIDENT: How can the honourable member then say that it was not adopted? What are the facts on which the point of order is based?

Sardar V. N. MUTALIK: I understand that the select committee discussed the points; then the report was written; but the report was not signed. The members gave the authority to the chairman to sign the report for them.

The Honourable the PRESIDENT: A member may himself sign or authorise some one else to sign for him. I have decided the case accordingly in other cases. There is no point of order. Let us not waste time over these trifling things.

Second reading.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I move now that Bill No. XVI of 1922 (a bill to consolidate and amend the law relating to local boards), as amended by the select commi tee, be now read a second time.

The Honourable the PRESIDENT: Before we adjourn for tea, I should like to mention that some honourable members have expressed to me a desire that instead of spending any time over a debate on the motion for second reading, the motion should be adopted without speeches and all that has to be said upon any subject may be said when the bill comes to be read clause by clause. That is a matter not for the Chair but the House alone has power to decide it.

Sardar Khan Bahadur A. M. DALAL: It is a very important bill and discussion should take place in a general way.

The Honourable the PRESIDENT: I am in the hands of the House. It is simply because some honourable members expressed to me a desire that I wish to ascertain the sense of the House.

Sardar Khan Bahadur A. M. DALAL: We want a general debate.

The Honourable the PRESIDENT: Then, you shall have it as of right.

*After recess.*

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Mr. President, I move that the Bill No. XVI of 1922 (A bill to consolidate and amend the law relating to local boards) be read a second time. Sir, when this bill came before this Council for the first reading there were a considerable number of suggestions made by several honourable members while accepting the main principles of the bill. All the suggestions that were made at the time have been fully considered by the select committee, and those suggestions that were considered useful and practicable have been given effect to by the select committee, and the report of the select committee is before this House.

I would like to deal with a number of changes that have been made by the select comm ittee, but in doing so I do not want to take the time of this House by entering into details. When this bill came for the first reading before this House, some of the honourable members of this House suggested that as we were creating panchayats in various villages, there was no necessity of taluka local boards. This question was very carefully considered by the select committee and as it was found that panchayats were not constituted in a large number of villages, it was absolutely necessary to retain the taluka local boards. However, a provision has been made for the elimination of the taluka boards where such a course is considered advisable by Government, and further, a provision has been made for the constitution of taluka boards for areas other than revenue talukas.

Again, Sir, a provision has been made for the continuance of the rights and liabilities of the existing boards to these boards under the new Act or to the boards established under the new Act. It was considered desirable that

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by statute a provision should be made for the representation of the members of the depressed classes, and such a provision has been made, namely that the depressed classes should come in by nomination. Again, it has been found by experience that at some of the general and by-elections, the requisite number of candidates do not come forward for election and some of the places remain vacant. Hence a provision has been made that such vacancies should be filled by nomination. Some minor changes have been made in clause 9 as regards disqualification. Under the original bill even a pleader whose sanad was suspended temporarily was disqualified, but now only a pleader whose sanad has been permanently suspended is disqualified. Again, in the original bill subordinate officers of the board were disqualified as regards election. Subordinate officers might include honorary officers also. Therefore, provision has been made only with regard to the stipendiary officers, and special provision has also been made in the bill as amended in favour of members of registered co-operative societies.

There are some amendments in my name to which I will refer when the clauses are moved. Again a provision has been made for the continuance of these boards under the new Act. Clause 35 has been re-enacted or rather amended on the lines of the District Municipal Act, section 26, as more detailed provision has to be made for the procedure of local boards in order to eliminate the principle cause of dispute.

When this bill came for the first reading objections were raised to a certain part of clause 50, which enumerates the obligatory duties of the boards. Objection was taken to the registration of births and deaths which, under the bill, is one of the obligatory duties of the boards, on the ground that the boards wanted a large staff for collecting these statistics. Therefore, that clause has been amended by the select committee. Again, the payment of allowances to the members of local boards has been made discretionary. Then it was pointed out that the construction and maintenance of light railways is a local board purpose. Under the present bill, in accordance with the wishes of the Council, this has been made clear. Under the bill, the local boards have been empowered to impose taxes, and in order to avoid unnecessary duplication of staff, specific provision has been made for the employment of Government agency also. Now the power of taxation was very much appreciated by the House, but honourable members complained that though the local boards have been given the power of taxation they will have to employ a very large staff to collect the taxes and an argument was put forward that the expenditure on the collection of taxes might exceed the income that they would derive from the taxes, and it was suggested that, as Government had already a large staff for the collection of revenue, that staff might also be employed for this purpose. Therefore, the select committee has given effect to the wishes of the House in that matter, and clause 63 has been amended accordingly. Again, under the old Local Board's Act the accounts of the local boards were to be audited by Government auditors and the old Act also provided that the expenditure should be borne by the boards, but the select committee has decided that the audit expenditure should be borne by Government. A very important change as regards execution of works by the local boards has been effected by the select committee, and that is of a very far-reaching character. Under the old Act, plans and estimates in regard to road construction costing more than Rs. 50 per mile and other works costing more than Rs. 200 were prepared by Government Executive

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Engineers, or were approved, or sanctioned by them. In the bill the limit of Rs. 50 per mile in regard to roads was raised to Rs. 200 per mile and in regard to other works it was raised to Rs. 2,000. Further the select committee were of opinion that exception should be made in the case of those boards that employed qualified engineers, and the change was made that wherever the boards employ qualified engineers, they can prepare their plans and estimates to any extent and can execute their works. In regard to other boards the original limit in the bill of Rs. 200 per mile on road construction was raised to Rs. 300 and in the case of other works it was raised from Rs. 2,000 to Rs. 3,000. I may tell the Council here that I have given effect to the wishes of the select committee, but I know from personal experience that some of the boards have got ordinary mistris and not qualified engineers. I think the raised limit is a very high one when we consider that there are no professional or expert engineers. Every president of a local board is not a retired executive engineer. Most of them are laymen. However, as it was the desire of the select committee, I have yielded to it.

Then, another change that the select committee has made is that now Government by statute will pay two-thirds of the salaries of the executive officers.

Then, Sir, much complaint was made that while wide sanitary powers were given to the boards, there was no proper agency for the purpose. The bill provides especially for the delegation of powers. The board can delegate its authority to taluka board or panchayats. Not only that, but the select committee went a step further. They made a provision for the appointment of a health officer, for whom Government shall pay two-thirds of the salary. I am sure that with all these agencies, the power of delegation and the appointment of health officers are the powers which can be properly exercised by the boards.

These, Sir, are the important changes that have been effected by the select committee. I do not like to go into the details or give any other explanation about the various amendments as they stand. I will deal with the amendments when they are taken up one by one. With these remarks, I hope the House will pass the second reading of the bill.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, the bill, as it has emerged from the select committee, is a great improvement over what it was when first introduced, and I think the House should thank the Honourable Minister and the select committee for the vast labour which they have taken in improving the bill. But I find there are, nevertheless, still defects which I trust the House will try to remedy. At the first reading I said that if you want to make this bill a great success, for which Government and the Council claim that the bill is intended, you should take, first of all, the village as the unit of local self-government, and by doing so you will create a real interest in the improvements proposed by this bill. This was my suggestion and I regret that it has not been accepted by the select committee. I suggest respectfully.....

The Honourable the PRESIDENT: I have ruled on several occasions that on a motion for a second reading the only relevant point is as to what *is* in the bill, and not as to what *ought to be* in the bill as amended by the select committee. It is only on the motion for first reading that both what is and what ought to be in the bill are allowable for debate.

Sardar Khan Bahadur A. M. DALAL : The Honourable Minister has asked us to consider the advisability of keeping taluka local boards until the panchayats under the Village Panchayats Act are in full operation, and he says that panchayats are not coming into being as they ought to. But why, I ask, are the panchayats not coming in ? Government ought to have taken that into consideration. The Village Panchayats Bill has been enacted for a long time now and I find that neither in the Deccan nor in Gujarat are villagers inclined, to form panchayats or to establish village panchayats. The main reason is that they have no interest. They rather lose than gain financially by dissolving sanitary committees and forming them into panchayats. Therefore, I say the select committee ought to have taken into consideration that point and devised some measure by which to induce those villagers who are disinclined to introduce village panchayats. This will take a long time and unless you give them some inducement by giving them some portion of the revenues of local cess and so forth in their own interest, they will not try to form panchayats. The seed and the germ of the local self-government are in the villages themselves. They already exist, but for want of funds, for want of money, they have not the ability to improve their condition. I respectfully beg to submit to this House that if you create an interest in these villagers, it will tend to the better stability of Government and the better well-being of the villagers themselves. You must keep their minds occupied in improving their condition. It is not done by this bill.

The Honourable the PRESIDENT : As the honourable member puts the point, it is liable to be ruled out of order. The argument would be within the bounds of relevancy if it is urged that what is in the bill is like putting the cart before the horse.

Sardar Khan Bahadur A. M. DALAL : In regard to the financial aspect of the question involved in this bill, many pecuniary financial obligations which were in the old bill have now been removed by Government to a certain extent. But in spite of this I am afraid that the board comprised as it will be of landed interests, will not exercise those powers which have been given them, to levy taxation. Government have hesitatingly given permissive powers to the boards to raise the cess by instalments of one-fourth anna with the permission of Government. In my humble opinion it will remain a dead letter in the bill. In spite of the excessive powers of taxation and the need of realising more money, the boards will not be induced to tax themselves. Government should at this juncture, by legislation, make it obligatory on boards to increase the cess. I must make my position clear. I am to a certain extent interested in land. My family is largely interested in land as they hold large lands. Parsee Panchayat affairs are under my management and are largely interested in land, and if by legislation the cess is raised from one to two annas, we have to pay much more revenue to the boards than we do. But both as a legislator and as a citizen keenly interested in the improvement of rural areas, I respectfully beg to suggest that Government ought to take this power in their own hands, and compel the boards by legislation to increase the cess from one to two annas. They have shelved this responsibility on to the local boards which in my humble opinion is not a wise step.

There are various amendments in the bill on which I would like to make observations but for fear of wearying the Council I resume my seat.

Dewan Bahadur K. R. GODBOLE (Poona District): Mr. President, as one of the district local board presidents in this Presidency, I know a

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good deal about the working of local boards and with the knowledge I have, I must congratulate the select committee on the amended bill they have placed before the Council. There are two or three points which appeal to me most, and the first is the formation of the standing committees. In the working of these boards hitherto, the great difficulty has been to get together the members from the various parts of the district and to have deliberations on matters more frequently. That has been the great difficulty. Hitherto we have been holding two or three meetings of the district local board every year. One of these meetings is the budget meeting and at the others also we discuss supplementary budgets. Many of the other details of the district administration are dealt with by the method of circulating the proposals to members and really there is no detailed discussion of the proposals from time to time. The introduction of the standing committees will remove this difficulty, the responsibility of the president will be considerably decreased, and the standing committee, by meeting very often, probably once a month or once in two months, will deal with the various subjects that come before the district local board for disposal. And in my opinion that is a great improvement.

Another point to which I would call the attention of this Council is that in the old law it is specified that every taluka should have a local board. The new bill makes it optional with Government to establish taluka local boards wherever they are wanted. As remarked by the previous speaker, we shall be making rapid advance in the formation of village panchayats, and with this rapid advance taluka local boards will be unnecessary in many cases, and Government should have the power of abolishing the taluka local boards whenever the necessity for them ceases to exist. There are other noteworthy features in the select committee's report and in the bill as revised by them. These will come up for discussion when the numerous amendments that are placed before the Council come up for discussion. There are certain general observations, however, that I want to make with reference to Chapter V of this bill, which relates to sanitary matters. In my opinion the provisions of this chapter, from clause 52 to clause 73, should be dropped, because the duties outlined in them in the matter of sanitation will hardly be practicable and their effect will not be of a lasting character. Suppose the president of the local board visits a certain village, and finds the sanitary surroundings of certain houses in that village unsatisfactory. He issues orders that proper steps should be taken to carry out the sanitary improvements which may be necessary. Within a fortnight again, the same insanitary state of things may come into being again. There must be machinery on the spot to see that this does not occur. What the Council has to realise again is that a district consists of 1,000 or 1,200 villages. In my own district I have 1,200 villages. Now, to look after the organisation of sanitation of this large number of villages, either by the president or by his deputy, will be a practical impossibility. A large subordinate staff will be needed for which there are no funds. In the absence of this subordinate staff who is there on the spot to see that the sanitary improvements initiated are kept up and are carried on? I think, therefore, that the provisions of Chapter V will probably remain a dead letter. The real thing in sanitary matters, so far as villages are concerned, is to have a local agency on the spot, and that agency our Presidency possesses in the shape of village panchayats. The village panchayat is the proper agency to look after village sanitation. For the local boards to control sanitation for the whole district consisting of

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1,200 villages, by means of a regular paid staff, is an impossible task. The only way in which it can be tackled is by having a panchayat for each big village and each group of smaller villages. The panchayats, fortunately, are now in a position to raise money by small taxation, and they can get additional funds from time to time, according to necessity, both from the district local board and from Government; and being on the spot, and seeing the sanitary conditions of the village from day to day, they will be the only fit agency to look after village sanitation. That being the case, I think the provisions of the bill as regards sanitary matt rs in Chapter V are not required and they will probably remain a dead letter. I see that my honourable friend Sardar Khan Bahadur Dalal has given notice of amendments to omit these sanitary sections and I am going to support him.

Then, another fact that the Council has to remember as regards village sanitation is that in many of our districts the occupants of houses, after the cultivation season is over, come to Bombay. The houses are empty, and there is no one in them for many months together. Some of the villagers, moreover, have got field houses to which they go four or five months in a year, and hence their houses in the village remain unoccupied. It will be a great hardship upon these villagers if you ask them to look after the sanitation of houses which they do not occupy for five or six months in a year. In one of the villages which I recently visited in my district, I found that nearly half the houses were deserted. Some of them were locked up, others had fallen down or were overgrown with vegetation. In the case of two or three houses there was only one woman left in charge of the house. Now, to ask that woman to cleanse the house and to remove the rabid vegetation that has grown will certainly be a great hardship. I am therefore strongly of opinion that Chapter V should be omitted from this bill and village sanitation entrusted to a large number of village panchayats. Where there are no panchayats, they should be created. There are cases of villagers not coming forward as candidates for these village panchayats. What I would do in such cases would be to empower the district local board or the Government to nominate members on village panchayats, where there are no candidates forthcoming for election. I would again point out that the panchayat is a local agency on the spot, with legal powers, for seeing to the sanitation of the village and this agency should be encouraged and made efficient instead of attempting to secure rural sanitation through the provisions of Chapter V of the present bill. With these remarks, I support the second reading of the bill.

Sardar DAVAR T. K. MODI (Surat District): Mr. President, I wish to make only one observation, and I only hope that you will not rule me out of order. I deem it my duty to protest most strongly against the manner in which legislation is carried on in this House. Let us look to the history of this particular bill. This bill was first published only a few days before the last session, and when my honourable friend the member for Surat City moved that the first reading of the bill be adjourned to the next session we were told by responsible members on the Government side that if the reading of the bill was delayed, then the other bill, namely, that relating to compulsory primary education would also be delayed, and that several parts of the districts of the Presidency where light was to be immediately brought by that bill would continue to remain in darkness, and that therefore we should not waste any time, but should try our best to go through this bill. The first reading was thus passed. Although the bill was first published before the last session of the Council, copies of the

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bill were not available to the public long after the bill passed its first reading. Now, Sir, when the select committee makes its report, that report is published just a few days before this session. Copies of that report are not available to the public, and not only that, but honourable members do not get sufficient time to closely study the provisions of a bill of this nature and magnitude, with the result that members are not able to send in their amendments in time. Several honourable members, I know, were anxious to send in amendments, but they were not able to do so; and, so far as my information goes, some important amendments were admitted by you only through grace and indulgence. I know, as a matter of fact, that.....

The Honourable the PRESIDENT: Not only some, but a very large number were admitted.

Sardar Davar T. K. MODI: That was very good and kind of you, Sir. Just because the time at our disposal was so very short, amendments have been sent in haphazard, with the result that, when we come to discuss them, I am afraid you will rule most of them out of order. I very respectfully submit that this is not the way to legislate. A bill of this magnitude and importance should not be hustled through this House. It is very unfair to the public at large and also to the honourable members of this House. Government themselves took seven years to hatch this proposal. The first committee which sat to consider the extension of local self-government in this Presidency in 1915, published a report in that year. The Government pondered over it and after a period of seven years this bill has been brought in. If Government took seven years is it not fair and proper that the public should have some time at least to consider the provisions of this bill, and also the honourable members of this House? I know that the Honourable Minister for Local Self-Government will tell us that they were consulting during these seven years persons connected with local self-government. It may be that now and then Government may have consulted local bodies or other people on certain subjects relating to this bill. But what I submit is that this bill as a whole was never submitted to those whom it really concerned. The local bodies were never consulted about this bill. The bill as a whole was never submitted to the local bodies or to other people who are interested in it for their consideration. Other public bodies were never given an opportunity to express their opinion about this bill. That is a point, Sir, on which I wish to lay great emphasis. Now with regard to the work of the select committee itself my honourable friend the representative of the Sardars of the Deccan (Sardar V. N. Mutalik) drew the attention of the Honourable the President to the fact that certain members of the select committee had not even signed the report.

Mr. O. ROTHFELD: Is that in order, Sir?

Sardar Davar T. K. MODI: I refer to it in order to show in what way the bill was considered in the select committee.

The Honourable the PRESIDENT: That is a matter for the select committee.

Sardar Davar T. K. MODI: A number of the members of that select committee have not put in their signature, as they had no time to read the report.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: They have read the report, Sir.

Sardar Davar T. K. MODI: I am very glad to know that I was wrong. The report was read by the members but they had no time to put their signature.....

Mr. O. ROTHFELD: The report has been signed by the members.

Sardar Davar T. K. MODI: I do not see that it is signed so far as the papers placed before us...

The Honourable the PRESIDENT: That is not relevant to the question.

Sardar Davar T. K. MODI: I am rather curious to know what has really happened. It appears to me very mysterious. That is a matter on which I hope, the Honourable Minister will oblige me with information. The public will be interested to know it. As I said in the beginning I had only one observation to make at present. I shall discuss the provisions of the bill when the amendments are moved.

Rao Saheb L. V. PARULEKAR (Ratnagiri District): Sir, I oppose the second reading of the bill and propose the following amendment:

"That the bill as amended by the select committee be referred back to the select committee without any limitation."

After going through the select committee's report, I find that many of the principles which were accepted at the first reading of the bill have not been embodied properly in the bill as it is before the House. I have thought over the matter as to why I should take the course I am now taking rather than proposing amendments to clause after clause, of this bill and I came to the conclusion that by moving such amendments it is not possible to get satisfactory results. The bill chiefly concerns the interest of the moffusil people; and I find that no kind of advance has been made with regard to the liberalisation of the provisions in the bill as it is presented to us for the second reading. There are defects of omission as well as of commission in this bill. I will take three principal points for consideration out of this bill: first the constitution of the boards, secondly the resources of income on which the local boards are to work and thirdly the control that has been placed upon it from outside. These are the main things that will have to be considered. So far as the first point is concerned the principle of elective and nominated members in the proportion of 3 : 1 is no doubt acceptable, but principle alone is not sufficient; we must look as to how that principle has been brought in practice and in what way it affects the interests of the persons concerned. The most important or practical side of the scheme has been left to the rules instead of being embodied in the Act. The number and the extent of the constituences so also the number of elected members, etc., are thus left to the rules. There is no power given to the Council to control or modify or suggest anything in those rules.

Giving this rule-making power to Government means to let the whole scheme to be worked as they like. Those rules will never come up for discussion of this Council nor of those whose representatives form the members of this Council. The only provision that is mentioned there perhaps as a safeguard is its publication in the local *Gazette*. Now, whatever is contained in the *Gazette* does not often reach.....

The Honourable the PRESIDENT: How is the discussion of the way in which rules are made, relevant to the question of referring the bill back to the select committee? Now the debate must be confined to a discussion of the motion for a reference back to the select committee, and not to the merits of the bill.

Rao Saheb L. V. PARULEKAR : I am stating, Sir, that there are defects of commission and omission in the bill. The e is no provision in the bill regarding ce.tain matters, such as constitution, etc.

The Honourable the PRESIDENT : So far I never interfered with the speech of the honourable member, but when he goes to discuss the rules and tell the Council how the rules will work hard on the public, then he is branching off into a debate on the bill which is irrelevant to the question in hand.

Rao Saheb L. V. PARULEKAR : Therefore it is that I said that the important matter has been left to be dealt with by the rules not subject to the same consideration and discussion by the representatives of the people as provisions in the bill itself. As for instance take clause 5, sub-clause (4). The e provision has been made for the rop: esentation of the depressed classes. The e is a provision " a member of such class if qualified and willing is to be nominated by the Gov rnment ", but who is to determine whether he is qualified and willing or are we to assume as to his qualification and willingness simply because he is nominated ?

The Honourable the PRESIDENT : I am afraid I must again inte fere with the honourable member's way of dealing with the motion. In moving a reference back to the select committee it is not permissible to go into the merits of the bill or of a particular clause or clauses. It may be pointed out generally that such and such a thing is omitted and that such and such a thing is defective, and that therefore all that can be considered in the select committee again. The question of refe ence back to the select committee is a very narrow one, and the debate should be limited to that and that only.

Rao Saheb L. V. PARULEKAR : I have only taken an instance. There is a certain vagueness in the bill and there are omissions and I simply point them out. So far as the constitution is concerned, the Council will observe that even this is left to be determined by rules. For instance clause 6 : therein it is stated that in exceptional boards, the previous provisions about the constitution in the bill do not apply and in such cases the Government is to make any provision as they think fit. There is no idea given under what circumstances these exceptional boards are to be formed. The whole matter is entirely left to the Government. There must be something embodied in the bill which can give us an idea as to when and for what purpose such exceptions are to be made in the constitution of particular boards and in what localities.

Then I will go to the other point, the question of the resources placed at th disposal of the local boards, clause 75. Then look at clause 50 which enumerate the burdens which the Government places on them by additional clauses.

The Honourable the PRESIDENT : I can very well sympathise wit honourable members' difficulties in making out what is and what is not relevan to the question of reference back to the select committee. I will just stat generally speaking what is relevant. Now the point to which the honourabl member was coming, namely, the additional burdens imposed upon the loca boards by the select committee by the addition of a new clause—that is a ques tion upon which this Council is as competent as the select committee to make up its mind and perhaps much more competent. On a motion of reference back to the select committee honourable members should confine themselves to the question why it should be referred back to the select committee and not considered by the whole House now. If the honourable member says that the question should go back to the select committee either because a certain clause is defective or because an additional clause has been introduced into the bill,

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a discussion on the merits is irrelevant. The honourable member should confine himself to pointing out why and how the select committee is a better body to consider that question at this stage rather than the Council itself. A motion for reference back to the select committee must be debated upon this one point, namely that the select committee can perform a particular task much better than the Council at the present stage, and without its report this Council cannot satisfactorily deal with the bill. Otherwise we shall be having interminable discussions.

Rao Saheb L. V. PARULEKAR: My submission is that if there is additional burden there is no proportionately sufficient supply of money.

The Honourable the PRESIDENT: That is a point which the honourable member can develop when that particular provision comes up for discussion when, and if, we read the bill a second time; but now the question is, why should the bill be referred back to the select committee? Why should it be referred to the select committee and not be considered by the Council?

Rao Saheb L. V. PARULEKAR: Under clause 75, there are certain sources suggested. My submission is that those sources are inadequate and that therefore some other sources must be added.

The Honourable the PRESIDENT: That is discussing the bill but the motion is not for that. The motion is to refer the bill back to the select committee. The Council may be asked to sit in judgment upon the points which the honourable member is trying to make.

Rao Saheb L. V. PARULEKAR: The Council cannot add additional sources.

The Honourable the PRESIDENT: If the Council cannot much less can the select committee. How is the select committee to deal with this question then? The select committee is a creature of the Council and must move within the limit of its powers given by the Council under the Standing orders.

Rao Saheb L. V. PARULEKAR: My submission is that there are no amendments suggested in that direction by the members. The select committee can go into all the sources and find out some more items than what have been already mentioned therein. For that purpose the select committee should go into the resources of the whole province and take evidence and find out the means for additional sources of revenue, which it is not possible for this Council to do.

The Honourable the PRESIDENT: The reason why the honourable member wants this bill to be referred back to the select committee rather than to be considered at this stage by the Council is that the select committee consisting as it does of a small number of members can better gather materials, take evidence, and find out every kind of information, whereas this Council cannot do it so well, and therefore the reference is necessary. That is the relevant way to put it for the purposes of the question before the Council.

Rao Saheb L. V. PARULEKAR: Therefore I say the select committee would be the proper body, and it would be waste of the time of this Council as well as energy to overhaul all these things, and therefore, the select committee would be the proper body to go into these questions and to place cut and dried proposals before this Council. Suggestions can be made in this Council here

[Rao Saheb L. V. Parulekar]

which can be utilised by the select committee, but here we have got a limited scope of action beyond which we cannot go. Therefore my submission is that so far as this important point is concerned, the select committee will be the proper body to go in that direction. There are sources from various directions, namely, Forest, Excise, and so many other sources from which we can get some income to meet this additional burden.

The next point I would deal with is in connection with the very inadequate provision that has been made to determine the relations between the taluka local boards and district local boards.

The Honourable the PRESIDENT : That is not a relevant point. If the select committee has made inadequate provision this Council can make adequate provision.

Rao Saheb L. V. PARULEKAR : Sufficient materials are not available ; I say that the materials that are mentioned in clause 35 are there, but it would be better for the select committee to determine the relation. Now so far as the village panchayats are concerned.....

The Honourable the PRESIDENT : I am afraid the honourable member is again going into the merits of the bill. They may be very good arguments on the motion for the second reading but they are irrelevant on the motion for re-committal of the bill to the select committee. I have pointed out the relevant points but the honourable member does not apply himself to them.

Rao Saheb L. V. PARULEKAR : I have given the instances of omission and commission. I submit that so far as commission is concerned there is undue interference and a very large control that has been placed.....

The Honourable the PRESIDENT : If the honourable member will not take my direction and confine himself to the point relevant to the question I shall take it that he has nothing more to say which would be relevant to the question under consideration.

Rao Saheb L. V. PARULEKAR : I have stated instances of omission but I have not referred to the instances of commission and therefore I humbly refer to chapters X and XI which clearly give undue powers of interference to Government.

The Honourable the PRESIDENT : That is a question which this House can deal with. Why should it go back to the select committee ? It will not do to wander away from the point at issue, which is whether and why there should be a reference back to the select committee or not.

Rao Saheb L. V. PARULEKAR : There are so many amendments to all these clauses. Is not that one of the grounds for recommittal ?

The Honourable the PRESIDENT : If that were a proper ground for recommittal then I think every bill would have to be referred back to the select committee. I think the honourable member has come to the end of his arguments and he had better resume his seat.

Question proposed is that the bill to consolidate and amend the law relating to the local boards, as amended by the select committee, be referred back to the select committee without any limitation.

I beg honourable members to confine their speeches to that narrow point. A few illustrations may be given of the inadequacies or defects of the bill,

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in order to show how the select committee can sit in judgment on this question better than the whole Council.

Mr. O. ROTHFELD: Sir, I can see that the honourable member who spoke last is probably singular in this House in saying that this bill should be referred again to the select committee. (Hear, Hear). I am afraid, that there are some people in the world who mistake eccentricity for originality. I must confess that from the speech of the honourable member who has been almost as inaudible in Bombay as he was unintelligible in Poona, he appears to be one of this class. But judging by his speech I would rather have advocacy such as his against the bill rather than in its defence. I trust however that most of the honourable members of this House do not agree with the remarks made by the honourable member who has moved this motion, but that they agree that the bill as it comes before the House is a good bill, is a bill which marks a considerable painstaking effort both on the part of the select committee and on the part of Government and the Honourable Minister in charge to produce a bill which would be satisfactory to the people of the Presidency, and equitable to the interests involved, and would, as far as possible, form the basis of further progress in the future. One other thing which impressed all of us who were members of the select committee was, I think, Sir, the feeling—to which utterance was given at the committee—that whatever differences of opinion there were on the details of the bill—and those differences were considerable—it was apparent, it was obvious, that every one who sat on the select committee was honestly doing his best to contrive something which would bring forward the public life of this Presidency to a material extent. I think that in a bill of this kind it would be too much to expect that every member of this House or every member of the select committee for that matter should be unanimous in his views. I suppose there are a good many people amongst those of us who have considered the subject of local self-government with interest for a great number of years and, if I may say so, studied the subject of local self-government of other countries as well, who feel that they have given up something of what they have been trying to see and accomplish. I do not say that for myself alone. I do say that for myself, but I do not say that for myself alone, but I do know the majority of my colleagues have honestly tried to give their best. We have all of us in turn felt that we were making concessions and that we were not adopting an abstract ideal but still giving an ideal adaptation to circumstances. But I think most of us have felt that in making these concessions to each other we have arrived at a compromise which represents on the whole a further stage to which generally speaking the sanest schools of thought in this country feel that we can go at present. That was the view of members in the select committee, and I am certain that that is the general view of members of this House.

Before I make the further remarks, which I shall try to make as briefly as possible, on the principal.....

The Honourable the PRESIDENT: Order, order. We are not concerned now with anything else. The honourable member is, I am afraid, imitating the example of his predecessor. Reference back to the select committee is the narrow point now before the House.

Mr. O. ROTHFELD: I am sorry, Sir. I should have said "before I make other remarks which I desire to make on the question of referring the

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bill back to the select committee." I think I am not out of order in commenting on a point made by the honourable member from Poona.....

The Honourable the PRESIDENT: Unless I know what that point is. I cannot say.

Mr. O. ROTHFELD: He suggested something about the omission of one chapter in the bill, chapter V. In regard to the omission of that one chapter on which he spoke.....

The Honourable the PRESIDENT: Who suggested that?

Mr. O. ROTHFELD: The honourable member from Poona (Dewan Bahadur Godbole).

The Honourable the PRESIDENT: Well, he suggested that on the motion for the second reading; not on this question about referring the bill back to the select committee.

Mr. O. ROTHFELD: In regard to the general motion purely for a reference back to the select committee, I wish to add only one more point in addition to saying what I have said already, namely that the House will appreciate that the bill as it stands now is the result of a very honest and straightforward attempt on the part of all of us. The principle in the bill is of extending the powers of the local boards, and of giving to each locality that constitution of local boards which is desirable in that locality. I believe the bill will commend itself to the House in the same spirit as prevailed in the select committee. On these grounds, Sir, I beg to oppose the amendment of the honourable member from Ratnagiri.

Mr. B. V. JADHAV: Sir, I beg to oppose the amendment moved by my honourable friend from Ratnagiri. He wants to refer back the bill to the select committee because he is of opinion that there are many burdens thrown on the district local boards and no adequate provision has been made as regards finance, and in his opinion if the bill is sent back to the select committee, that committee will be able to take evidence and to come to a decision as to what taxes should be levied and how much money could be collected and so on. I say, Sir, that the taxes that are to be levied by the district local boards have been enumerated in a schedule in the Government of India Act, and no new taxes can be levied or can any local board be allowed to levy any which are not enumerated in that schedule or list. Under the circumstances, Sir, if the bill is referred back to the select committee, the select committee will not be able to make any useful suggestion because as matters now stand, taxes enumerated in that schedule only are liable to be levied after following the provisions laid down in the rules, and therefore the referring back to the select committee will not be of any use for improving finances. I therefore say that no useful purpose can be served by recommitting this bill to the select committee and that this House is competent to deal with it without such reference.

Major General W. E. JENNINGS: I move the closure, Sir.

The Honourable the PRESIDENT: I accept the closure. Has the honourable member from Ratnagiri anything to say in reply?

Rao Saheb L. V. PARULEKAR (Ratnagiri District): I have nothing to add.

Question put and negatived.

The Honourable the PRESIDENT: Now the question again proposed: That Bill No. XVI of 1922 (A bill to consolidate and amend the law relating to local boards) be now read the second time.

Mr. G. B. TRIVEDI (Thana District): I move the closure.

The Honourable the PRESIDENT: I accept the closure. Has the Honourable Minister in charge got to say anything in reply?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I only want to say, Sir, a few words on the points that have been raised in the debate. The honourable member from Broach raised the point.....

The Honourable the PRESIDENT: The Honourable Minister is dealing with the question of reference back to the select committee. The House has already decided that point.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: One honourable member wanted a certain proportion of the local cess to be earmarked for the panchayats. I think if we go on earmarking in this manner, then it will be interminable. Another great defect of such an assignment will be that villages with a larger income will get more and poorer villages will get less. That means we will be starving poorer villages and pampering the richer villages. Under the Panchayats Act, district local boards can make contributions to panchayats. Therefore such specific assignment seems to be quite unnecessary.

Another point was made by some of the honourable gentlemen in this House that Government ought to make it compulsory on the local boards to raise the one anna cess to two annas. I may say at once that I am very much afraid that if Government acted on this there would be a hue and cry raised all around that Government on the one hand profess to have given local self-government and on the other hand are interfering with district local boards. I do not think the honourable members desire Government to do things the responsibility and odium of which the local boards are not courageous enough to take.

Coming to the suggestion thrown out by the honourable member from Poona that Chapter V of this bill ought to be altogether eliminated because the local boards are spread over a larger area and will not be able to attend to the details of every-day administration, I think I have already told this House that there is the power of delegation provided in the Act. Even under the Panchayats Act, a provision is made for looking after sanitation. I do not therefore think that the suggestion as regards the complete elimination of Chapter V should be accepted by the Council. The panchayats have been formed only recently and I venture to hope that the day is not far distant when we shall see a larger and larger number of panchayats being formed in all parts of the Presidency. Till then we have another agency, namely, the taluka local boards which will have a large number of members. The district local boards can delegate to the taluka local boards powers under this bill as it stands and the latter can exercise these powers by means of small committees. Similarly with regard to district local boards. I think I have already informed this House that we have made provision under this Act for the appointment of a health officer two-thirds of whose salary will be paid by Government. We do not legislate only for the present but also for the future. I do not think that district local boards lose anything by the powers conferred by this bill and I hope that the boards will be able to avail themselves to the fullest extent of all the powers that will be given to them by this bill.

[Khan Bahadur Shaikh Ghulam Hussain]

I therefore move that this bill as amended by the select committee be now read a second time.

Bill read a second time.

Question put and carried.

*Bill read clause by clause.*

Clause 2 (*Repeal of certain Acts*) ordered to stand part of the bill.

Clause 3 (*Interpretation section*).

In this Act, unless there is anything repugnant in the subject or context,

(*a*) the words "salaried servant of the Government" do not include a retired servant of the Government in receipt of a pension or a person in receipt of a salary or fees from the Government who is not a full time servant of the Government;

(*b*) the word "taluka" means any local area for which a taluka board is established, inclusive of the portion of such area, if any, for the time being within a municipal district or a military cantonment;

(*c*) the word "Mamlatdar" means in Sind a Mukhtyarkar; and

(*d*) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code.

Mr. G. B. TRIVEDI (Thana District): May I say a few words as regards clause 3, Sir? I have sent in some amendments.

The Honourable the PRESIDENT: I must say that all those amendments which were sent to me yesterday or the day before yesterday have been ruled out by me as being beyond time. I think I have gone as far as I could in admitting amendments that were beyond time, but there must be a limit.

Mr. G. B. TRIVEDI: Can I not speak on the question as to why I was late in sending the amendments?

The Honourable the PRESIDENT: The honourable member has already explained to me that he got the dissenting minutes too late. I have been looking into the dissenting minutes and I don't see how they could have prevented his sending in his notices of amendments in time.

Mr. G. B. TRIVEDI: May I speak on the clause itself?

The Honourable the PRESIDENT: Yes, certainly.

Mr. G. B. TRIVEDI: The clause will not be perfect without the addition of one more sub-clause. It is this that the powers that Government have taken under this bill of rule-making will be more popularly exercised and will be popularly admitted if there is one more addition that there should be created a local self-government board to help the Minister in.....

Mr. O. ROTHFELD: On a point of order, Sir, is the honourable member right in speaking on the interpretation clause at all?

The Honourable the PRESIDENT: So far as he has gone, I think he is relevant, but let him go forward a bit, give him enough rope.

Mr. G. B. TRIVEDI: What I think is this. I want to say that later on.....

The Honourable the PRESIDENT: We are dealing with the present; let us proceed step by step.

Mr. G. B. TRIVEDI: Afterwards you will say that I did not move at that time.

The Honourable the PRESIDENT: Later on, if I say so, I may be asked why I say so; but I cannot deal with the future. I must only deal with the present, and you must deal with the present accordingly. It is no use anticipating things like that.

Mr. G. B. TRIVEDI: This clause deals with definitions; and my submission is that later on, if this House finds that a certain addition is necessary, and perhaps this House agrees to that.....

The Honourable the PRESIDENT: What is the defect in the definition clause?

Mr. G. B. TRIVEDI: I want to introduce the definition of local self-government board.

The Honourable the PRESIDENT: How will the honourable member define it?

Mr. G. B. TRIVEDI: I would define it in this way. For the purposes of this Act, the word 'local self-government board' means a board formed from amongst the members of the Legislative Council to serve as a standing committee for municipal and local affairs in direct contact with Government and in whom the control and guidance of local bodies shall vest.

The Honourable the PRESIDENT: That is not a definition, but constituting the board under the guise of a definition by an indirect and covert method. That is not in order.

Mr. G. B. TRIVEDI: In the clause there is no definition; that is what I say.

The Honourable the PRESIDENT: I think that is irrelevant.

Clause ordered to stand part of the bill.

Clause 4 (*Establishment of district and taluka local boards*).

(1) The Government shall establish one district local board for each district as constituted from time to time under the Bombay Land Revenue Code, 1879, and may establish such number of taluka local boards for such areas within the district as it shall deem fit.

(2) Local funds shall be administered by local boards established under the provisions of this Act.

(3) A district local board and subject to the authority of the district local board, a taluka local board shall have authority for the purposes of this Act over the area for which it has been established, except such portion thereof as is for the time being within the limits of a municipal district or cantonment.

(4) Any local board established under the Bombay Local Boards Act, 1884, and existing immediately prior to the coming into force of this Act, shall be deemed to have been established under this Act;

and in respect of all property, debts, obligations, contracts, agreements, civil and criminal proceedings and any other matter or thing the rights and liabilities of any such local board shall be deemed to vest in the local board so deemed to have been established;

and any appointment, notification, notice, tax, order, scheme, license, permission, rule, by-law or form made, issued or imposed in respect of any such local board under any law other than the Acts repealed by section 2, or, so far as consistent with the provisions of this Act, under any Act so repealed shall be deemed to have been made, issued or imposed under the provisions of such law or this Act respectively in respect of the local board so deemed to have been established under this Act, unless and until superseded by any appointment, notification, notice, tax, order, scheme, license, permission, rule, by-law or form made, issued or imposed under such law or this Act.

The Honourable the PRESIDENT: Clause 4. There is, first of all, an amendment, notice of which has been given by the honourable member Mr. Pahalajani. It is:

"That in line 2 the following words be added:

'which shall be authorized to consider matters concerning the local interests of the district and be charged with such duties as are hereinafter prescribed'."

I rule this amendment out of order for several reasons. One is that this is not the proper place for the amendment. The more appropriate place would be Chapter IV. But that is not the only vice of this amendment. The amendment is on the horns of a dilemma. Either the honourable member's amendment seeks to give new powers to the board, or it merely defines, in other language, the powers already given by clauses 47 to 50. The amendment is: "the board

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shall be authorised to consider matters concerning the local interests of the district". If it is a power not given by this bill, then that is giving a new power—widening the sphere of the local board, and therefore, beyond the scope of the bill as it passed the first reading. But, if the meaning of the amendment is that it gives no new powers beyond what is already given in clauses 47 to 50, then I say the amendment is out of order upon the ground, that it is, using the words of the Chair in the House of Commons in such cases a "redundant" and "unnecessary amendment",—and should be ruled out of order. Further, the amendment is vague. What is meant by "local interests"? It is a very ambiguous term, and may mean anything on earth. Suppose there is a quarrel between husband and wife; has the local board to consider it as a local interest? Again, members of the local board are suffering from dyspepsia; that is a matter of local interest. A loose phrase like that ought not to go into a legislative enactment. Therefore, I rule this vaguely worded amendment as out of order.

Then, the next amendment of which notice has been given by Mr. Bhate is this:

"Leave out the word 'may' in line 2, and insert instead the words 'shall also'."

That amendment also must be ruled out of order, for this reason. It makes nonsense of the clause. The clause as it stands gives discretionary power to the local board to establish such number of taluka local boards for such areas within the district as it shall deem fit. Now, if you take away 'may' and insert 'shall,' it means that you first impose an obligation on the board to do a thing and then say that the local board may do it or not "as it thinks fit". That is a contradiction in terms. It makes nonsense of the clause. But the honourable member may probably suggest to strike out the words "as it shall deem fit". Still the clause will make nonsense, because you impose on the local boards the obligation of establishing a number of taluka local boards for such areas, whether they are required or not. That is absurd. The honourable member ought to remember that he has not proposed an amendment that the words "as it shall deem fit" should be struck out. He wants them to be retained, and so long as they are retained, his amendment is out of the question. If the honourable member will read XXVI Indian Law Reports, Bombay, page 407, and the remarks of the Judicial Committee of the Privy Council quoted there upon the words "as it shall deem fit," he will find that where it is intended not to compel, but to leave it optional with a public body to do a thing "as it thinks fit" the words "think fit" are the very ordinary technical and appointed words to show that the duty is not compulsory. I, therefore, rule this amendment also out of order.

Then, as to Mr. Trivedi's proposed amendment he wishes to tack on the amendment to a clause which has nothing to do with it. He wants at the end of sub-clause (4) a proviso to be added as follows:

"provided that new elections of these local boards are held within one year of the coming into force of this Act."

This clause does not deal with the question of new local boards or their elections. It merely says that Government shall establish district local boards and may establish taluka local boards. As it involves a very important question of principle which was not referred to at the first reading and not considered by the select committee, I rule it out of order.

Mr. G. B. TRIVEDI: I want an explanation from the Honourable Minister on this point.

The Honourable the PRESIDENT: Not only an explanation; but you have every right to speak on the clause.

Mr. G. B. TRIVEDI: It may be that I am not conversant with the way in which amendments are to be drafted.

The Honourable the PRESIDENT: Pray, do not enter into an apology. Let us get to business at once.

Mr. G. B. TRIVEDI: What I want from the Honourable Minister is whether the present elections that are taking place.....

The Honourable the PRESIDENT: This is not the question time. I understand that the honourable member wanted an explanation with regard to the clause.

Clause ordered to stand part of the bill.

Clause 5 (*Constitution of local boards*).

(1) Every district and taluka local board shall consist of—
(*a*) elective members, and
(*b*) such persons, if any, as the Government or any officer whom it authorizes in this behalf from time to time appoints, who shall be called "nominated members."

(2) Any officer of the Government may be appointed by the said authority by his official designation only to be *ex-officio* a member of the board. The holder of the office for the time being and all persons succeeding thereto shall then be members of the board in succession, provided that the combined term of office of such persons as members of the board shall be limited in the manner provided in this Act for the term of office of a person appointed to be a member otherwise than *ex-officio*.

(3) The number of elective members shall be not less than three-fourths of the whole board, and not more than one-half of the nominated members shall be salaried servants of the Government.

(4) Where in the opinion of the Government in the area subject to a local board the number of any class which in the opinion of the Government is a depressed class is sufficient to require representation on the local board and no member of such class has been elected and a member of such class is qualified and willing to be nominated a member of the board, the Government shall nominate one such member to be a member of the local board.

(5) Any vacancy due to failure to elect at any election or bye-election the full number of elected members may be filled by appointment by the Government.

The Honourable the PRESIDENT: Clause 5. Here again Rao Bahadur Kale wants in sub-clause (1) to add a new sub-clause (*c*) as follows:

"Co-opted aldermen elected by transferable vote by the members elected and nominated under the preceding clauses of this section."

My difficulty first of all is whether there are aldermen in India. An alderman, as defined in the dictionaries, is "formerly an Anglo-saxon gentleman, but now a city or borough magistrate ranking next to the mayor". Here we have neither governors nor mayors of shires.

Rao Bahadur R. R. KALE: I have taken that from the Government of India resolution of 1918. I understood so far as our country is concerned it is equivalent to....

The Honourable the PRESIDENT: I must rule it out of order. It is introducing a thing which is not in existence.

Rao Bahadur R. R. KALE: Can I introduce the word 'member' instead of the word 'aldermen'?

The Honourable the PRESIDENT: I cannot allow that.

The next amendment of which notice has been given is as follows:

"In sub-clause (3) after the word 'three-fourths' and before the word 'of' insert:—'and that of co-opted members not less than one-eighth'."

This also goes with the one with which I have now dealt.

Rao Saheb D. P. DESAI (Kaira District): Sir, the amendment I wish to move runs as follows:

"In sub-clause (4) of clause 5 lines 17 and 18, insert the following words between 'shall' and 'nominate':—

'with the concurrence of the local board concerned.'"

My object in moving this amendment is that, while the Government are taking power to nominate representatives of the depressed classes, the local board concerned also should be consulted in the matter. In these days of democratic government, we should not thrust or force on local bodies concerned anything to which they might take objection. So far as I am concerned I have not the least objection to the nomination of a member of the depressed classes, but I do believe the boards should have a concurrent power. In this case we are not dealing with cities, where, perhaps, there will be no objection to having a depressed classes member on the board, but we have to deal with rural areas which are not so advanced where the imposition of this condition may alienate their sympathy towards that class. That is my object in moving the amendment.

The Honourable Dr. R. P. PARANJPYE: Sir, I wish to oppose this amendment, especially because this part of the clause was introduced at my suggestion. I feel that the remarks made by the honourable mover of the amendment themselves justify the retention of this clause. It is because the depressed classes are likely to be overlooked that we want special representation of the depressed classes. If the depressed classes possess the sympathy of the other classes, and if they have no grievances, there would have been no necessity for special representation of these classes. It is because it is feared that other classes do not wish that depressed classes should come forward, that provision is made for the nomination of the depressed classes.

I know in that part of the Presidency from which the honourable mover of the amendment comes, there is a great deal of prejudice against allowing social equality to the depressed classes. I remember to have read some time ago that while the great programme of non-co-operation in which the abolition of untouchability figured prominently was being vigorously advocated in his district, when children of the depressed classes sought admission into national schools that were being started, they were told that they could not get admission into national schools, but that they had better go to local board schools. When there is so much prejudice against the admission of depressed classes into national schools, how can we expect that their interests would be properly safeguarded without nomination? I hope the Council will unanimously reject this amendment.

Mr. B. V. JADHAV: Sir, I must oppose this amendment. I ought to admit that I fail to understand the necessity of this amendment. The honourable member for Kaira I say, that there are certain people whose susceptibilities will be shocked if they are asked to sit along with members of the depressed classes. But what will these members who raise an objection to sit along with members of the depressed classes if nominated by Government do when such member is elected to the local boards? If their susceptibilities will not be shocked by having to sit with elected members why should their susceptibilities be shocked by having to sit with nominated members? If their susceptibilities are shocked in both the cases, then good-bye to the popularisation of local boards and good-bye to the elective principle. So, this amendment goes to the root of popular government; and therefore I urge that it ought to be rejected.

Dewan Bahadur K. R. GODBOLE (Poona District): Mr. President, I also oppose this amendment. And my ground is that I find these depressed classes to be at a very great disadvantage in our villages; especially as regards their water-supply, entry into and seating in schools, occupation of dharmasalas, etc. They are treated in a manner which is not consistent with our ideas of democratic government. It is but proper that their interests should be safeguarded in the matters that I have alluded to, and that every local board should have a representative of the depressed classes on the board.

Mr. M. W. PRADHAN: Sir; I move for a closure.

The Honourable the PRESIDENT: I accept the closure.

Rao Saheb D. P. DESAI: Sir, the sense of the Council appears to be....

The Honourable the PRESIDENT: Do you want to withdraw?

Rao Saheb D. P. DESAI: Yes.

The Honourable the PRESIDENT: If so, I do not think any explanation is necessary.

Rao Saheb D. P. DESAI: I beg leave to withdraw.

The Honourable the PRESIDENT: Does the House allow it to be withdrawn?

Amendment by leave withdrawn.

Clause ordered to stand part of the bill.

*Clause 6* (*Elective members of local boards by whom to be elected*).

**The elective members of local boards shall be elected by general and Mahomedan constituencies and the number and the extent of such constituencies and the number of members to be elected by each constituency shall be as prescribed by orders made by the Government under clause (a) of section 133.**

The Honourable the PRESIDENT: Now clause 6 comes in, and honourable members will allow me to detain them a little because I want to explain thoroughly how the debate upon this should proceed. There are a fairly large number of amendments of which notice has been given and these run into one another. In order that there may be no complication I have arranged them in such a way as to prescribe which amendment should be taken first, which will follow, and which are not in order. The whole question raised by the amendments to this clause of which notices have been given is that of communal representation. There are several amendments which propose that communal representation must be done away with, and therefore I have selected for priority according to the usual practice, that amendment which gives the widest scope for discussion. I shall therefore first call upon Mr. Gandhi to move his amendment. His amendment is to leave out the words "general and Mahomedan constituencies" and to insert new words instead. Mr. Gandhi's will be the first to be moved. Then I will put to the vote, when his amendment comes to be put, only the portion to leave out as follows.

**"That the words 'general and Mahomedan constituencies' do stand part of the clause."**

Therefore, all those who have like Mr. Gandhi proposed any amendments to do away with the Mahomedan constituency and to have a general constituency will speak on his amendment. And then supposing the House comes to the conclusion that the words "general and Mahomedan constituencies" should be left out, that is to say, if Mr. Gandhi's amendment is carried, the result will be that Rao Bahadur Ramanbhai's amendment, Rao Saheb Harilal Desai's amendment, Mr. Bhate's amendment, Rao Bahadur Kale's amendment, which all propose to do away with Mahomedan

[The President]

constituencies will fall to the ground as being inconsistent with the decision of the Council on Mr. Gandhi's amendment that there shall be one general constituency and no communal or otherwise separate constituencies. Sardar Mutalik's amendment proposing a separate constituency of landholders will also share the same fate in the event of the acceptance of Mr. Gandhi's amendment by the Council. Mr. Gandhi wants to delete "general and Mahomedan constituencies". By that is meant, I take it, that there should be no special or separate constituencies of any kind and that there should be only one general constituency.

Mr. C. M. GANDHI: Yes.

The Honourable the PRESIDENT: Therefore, all amendments proposing special constituencies, whether for Mahomedans, depressed classes or landlords or the like will be out of order in being swept away by the decision of the Council, if Mr. Gandhi's amendment be carried, that there shall be no special representation or separate constituencies of any kind.

Sardar V. N. MUTALIK: I suppose I shall be allowed to move an amendment to the amendment.

The Honourable the PRESIDENT: No. I do not think it can be allowed. Mr. Gandhi proposes that there shall be one general constituency and no special or separate constituencies of any kind. To move a modification of that amendment, that there shall be a separate constituency for landlords or depressed classes, will be to move a direct negative of the proposal. That will be not an amendment of the amendment.

I want Government members especially to take down, what I am explaining, so that no mistake of the nature that occurred yesterday, for which I was partly responsible with the Honourable the Finance Member, might be repeated. I ask all honourable members in fact to take this down so that when the time for voting comes, there may be no mistake or misunderstanding.

If the words "general and Mahomedan constituencies" are left out as proposed by Mr. Gandhi, then Mr. Gandhi will move the insertion of his new words. If the House decides that those new words ought to be inserted, then will come Mr. Bhate's amendment as to cumulative voting. I do not understand what he means. He wants the right of cumulative voting to be given. I am not quite sure that it is in order in this place when we are discussing the question of constituencies. On the question of general or Mahomedan constituencies, how does cumulative voting come in?

Mr. G. C. BHATE: When there are two or three candidates standing for a constituency, the elector will have as many votes as there are candidates and he can bestow all his votes on the same candidate.

The Honourable the PRESIDENT: That question is altogether different. The case of cumulative voting seems to me to be a question of principle and that question was not raised by the honourable member at the first reading. Was it raised?

Rao Bahadur R. R. KALE: Nothing was said as to cumulative voting or other systems of voting.

The Honourable the PRESIDENT: I have not stated here that it is out of order. I have merely put in a query. Therefore, when Mr. Gandhi's words are inserted, the honourable member may rise and I will hear him and make up my mind. If Mr. Gandhi's amendments, both as to deletion and insertion,

[The President]

are agreed to, then I will ask Mr. Bhate to move his, and I will decide the question whether he is in order or not.

The Honourable Dr. R. P. PARANJPYE : Sir, I rise to a point of order. I would just point out that Mr. Gandhi's amendment refers to communal representation, and if it is carried, then you can ask the honourable member for inamdars, Sardar Mutalik, to move his amendment because it refers to inamdars' representation.

Sardar V. N. MUTALIK : Mr. Gandhi's amendment concerns Mahomedan constituency and my amendment does not affect that amendment at all. So even if Mr. Gandhi's amendment is carried and these words are deleted .....

The Honourable the PRESIDENT : The Honourable Minister for Education and the honourable Sardar are both wrong. The honourable Sardar Mutalik proposes that there ought to be a special constituency for landlords, while Mr. Gandhi does not want a special constituency, whether Mahomedan or otherwise. Mr. Gandhi's amendment strikes at the very root.

The Honourable Dr. R. P. PARANJPYE : Mr. Gandhi restricts the constituency while Sardar Mutalik extends it. He proposes an additional landlords' constituency. If Mr. Gandhi's amendment is carried, Sardar Mutalik's amendment will be in order.

The Honourable the PRESIDENT : That is not so. If Mr. Gandhi's amendment is carried, all amendments proposing any kind of separate constituency, whether communal or otherwise, will be swept out. If Mr. Gandhi's amendment is carried, I will allow Rao Saheb Harilal Desai's amendment to be moved because it concerns a question of nomination. His proposal is to do away with all special constituencies by election, but if there are any special classes which require protection he proposes they should come in by nomination ; therefore that would be in order. Is it not so ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : That reserves seats for Mahomedans by election. That is what Rao Saheb Harilal Desai's amendment proposes.

The Honourable the PRESIDENT : In that case that amendment too will go out. Then Mr. Gandhi's further amendment will be moved for the insertion of new words ; after that Mr. Pahalajani's amendment will be moved as that amendment will survive.

Rao Bahadur R. R. KALE : If Mr. Gandhi's amendment is carried, I have got an amendment which is .....

The Honourable the PRESIDENT : I think that amendment also will fall. With the rest I have dealt.

Rao Bahadur R. R. KALE : I say that there should be no special constituency, but I want to add a proviso " provided that Government may in certain cases..... "

The Honourable the PRESIDENT : It brings in a special class and it therefore falls with that of Rao Saheb Harilal Desai.

Rao Bahadur R. R. KALE : Why not leave Government to make rules for a special constituency ?

The Honourable the PRESIDENT : You cannot do indirectly what cannot be done directly.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: If Mr. Gandhi's amendment is carried, I am afraid Mr. Pahalajani's amendment cannot be moved, because he proposes a general constituency for the Hindus of Sind.

The Honourable the PRESIDENT: The Honourable Minister has raised a point which is very important and I shall explain the reason why Mr. Pahalajani's amendment will in my opinion survive. If Mr. Gandhi's amendment be carried and the House decides for a general constituency or electorate for all local boards throughout the Presidency, the House will have laid down a general principle for the whole Presidency. It is true that after that decision no amendments cutting down and whittling away that general principle will be in order. The rule in such cases is thus stated by the Chair in the House of Commons in Parliamentary Debates, official proceedings, 5th series, vol. 95, columns 1140 and 1141:

"This question must be decided as a matter of principle; otherwise we shall have no end to proposals for the exemption of particular cities and boroughs. In that I don't include the amendment..... to insert after the word 'constituency' the words 'outside the administrative county of London', because, on the ground of existing distinctions in local government I think there may be a case for difference between the case of London and the rest of the country. I can see no ground and can find no precedent for the admission of a series of precedents dealing with particular constituencies. There are well-known rules against admitting a series of diminishing amendments which is what it comes to if we deal with individual cases separately."

That ruling was given under these circumstances. The House decided for proportional representation; then several amendments were sought to be moved to exclude some particular cities and boroughs from the application of proportional representation. London was one of such cities sought to be excluded. The Chair allowed only the amendment as to London on the ground above stated, but ruled out all the rest. I am going to apply that ruling in the case of Sind and allow Mr. Pahalajani's amendment, because the existing conditions of local government in Sind differentiate it from the rest of the Presidency.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, I understand from your ruling that if Mr. Gandhi's amendment is carried it lays down a proposition that there should be one special distinction left in a special part and if that is carried all amendments dealing with the creation of special constituencies or special representation shall go away, and in that case I do not know how the amendment of Mr. Pahalajani can stand.

The Honourable the PRESIDENT: I have studied the question and I have stated the authority from the House of Commons which aptly applies. I am perfectly right and I hope honourable members will not confuse the issue. If Mr. Gandhi's amendment as to leaving out special constituencies fails, the result will be that Mr. Gandhi's amendment as to the insertion of new words instead will also fail and the amendments of Rao Bahadur Ramanbhai, Rao Saheb Harilal Desai and Rao Bahadur Kale also fall to the ground. Then Sardar Mutalik will be allowed to move his amendment as to landlords and after that the amendment of Mr. Pahalajani may be moved.

I have explained the position and arranged the order of the amendments. I think it is now quite clear how we are to proceed with this tangle of amendments on the question of special constituencies, communal or otherwise. Now, the honourable member from Surat (Mr. Gandhi) will move his amendment.

Mr. C. M. GANDHI (Surat City): I move, Sir:

"That the words 'general and Mahomedan constituencies' in clause 6, lines 1 and 2, be deleted."

My object in so doing, Sir, is to have one constituency and to do away with all class or communal representation, and I move that amendment because, I think, it is impolitic, unnecessary and opposed to the spirit of the reformed councils and, therefore, it should not have been brought in by an Honourable Minister in charge of the Local Self-government portfolio. It is impolitic, for, if the reforms are to be a success, then anything which has a tendency to retard the growth of the true spirit of nationality ought to be stopped, unless and until a very strong case is made out to the contrary. If any case is made out at all, it is quite the other way. Government have time after time said that communal representation was not only not suited, but would be against the best interests of the country, and even when the Montagu-Chelmsford Report was out, the authors of that report pronounced a very strong opinion against communal representation. They said:

"That the evils of the extension of that principle were quite clear. They regarded any system of communal electorates as a very serious hindrance to the development of the self-governing principles; it is opposed to the teaching of history; it perpetuates class divisions, and means the creation of political camps organized against each other and teaches men to think as partizans and not as citizens."

In the face of such a pronounced opinion by the authors of the Montagu-Chelmsford reforms, the Honourable Minister ought to have advanced very strong reasons why he thought it necessary to adopt this retrograde measure. So far as I am able to judge by the speech which he made, his reason seems to be this that in the peculiar conditions of Sind the experiment of introducing such a representation was found to be good, and it should, therefore, be found to be good for the Presidency. Even, if it were permissible to make a generalisation from the peculiar conditions in Sind, then I doubt, Sir, if the result there gained was as he thinks. So far as Gujarat is concerned, even the author of the movement for the introduction of such representation in Sind had to admit that in the happy province of Gujarat there was no need for it.

The testimony of another gentleman, the Deputy President of this House, who has had considerable experience in the working of district local boards in Gujarat is to this effect:

"My examination of the returns of elections in Ahmedabad, Kaira and Broach shows that the apprehension of the Mahomedans is unwarranted. The voting strength of Mahomedans in 8 talukas in Ahmedabad was 915 out of a total of 14,047 voters, whereas in 7 talukas in Kaira it was 558 out of a total of 10,765. The average was 7 and 5 per cent. respectively, and in all the groups they were in a minority. Yet in the case of five talukas in Ahmedabad and three in Kaira the overwhelming majority of the Hindu voters had elected Mahomedans as their representatives."

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: May I know how many Mahomedans were returned in Ahmedabad?

Mr. C. M. GANDHI: Five.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Not a single Mahomedan was elected in Ahmedabad.

Mr. C. M. GANDHI: I mean in Ahmedabad district; not city. However, that is beside the point. Out of a total voting strength of 14,047, the voting strength of Mahomedans was 915, and therefore the Honourable Minister cannot expect Mahomedan representation on a district local board unless a man of outstanding abilities was there for election.

[Mr. C. M. Gandhi]

In Broach the voting strength of Mahomedans was 3,336 out of a total of 11,615. Ten Mahomedans were returned. It shows that Hindus do not hesitate to elect Mahomedans when such Mahomedans are really good and true citizens of the place. Similar was the case in Surat district. We know, as a matter of fact, that in several talukas Mahomedans are in a hopeless minority, and yet when good and true Mahomedans are found capable of taking their place on the taluka or district local boards, they are returned. But that is not a proper ground to assert that in order that Mahomedans may be returned on the taluka or district local boards even if there are better Hindus to represent and take care of the local interests, that special constituency should be created for Mahomedans. If that was a sound argument, as regards the Municipal Act, I do not see why Government should have brought forward the present proposal to give separate representation to Mahomedans on district and taluka local boards. Anybody who cares for the proper advance of the country on proper national lines will set his face against the very idea of special representation to Mahomedans on local bodies unless, as I said, there is likely to be a conflict of interests between the two communities in which case of course there might be some show of reason for granting special representation to Mahomedans. It has been pointed out times out of number that as regards education the interests of Mahomedans are likely to suffer in the matter of Urdu instruction, *i.e.*, whether Urdu should be made the language in which instruction should be given or not, and I really fail to find there is any other real difference of interests of the two communities in matters local. That is a matter which can be provided for by the education board. Even supposing it was so would this representation of Mahomedans on the basis of the number of voters or of the number of population do any good where Hindus are in an overwhelming majority ? I respectfully submit, Sir, not. For, after all, take that the population of Mahomedans is in the proportion of 1 to 5 and that one-fifth of the seats are reserved for Mahomedans ; what good will it do ? If the Hindus are bent on acting in a spirit of partizanship and deciding against their Mahomedan colleagues in all matters touching their peculiar interest, where will the Mahomedans be ? But, Sir, I cannot for a moment imagine that representatives of the people elected on the district boards, be they Hindus or Mahomedans, will not, once they are in, begin to look upon local questions from the point of view of the good of all. At any rate, it ought to be the effort of the Honourable Minister of Local Self-government to engender a spirit of loyal service in the common interest and he ought not to be a party to a measure of this retrograde character for, as I said, it is not only unnecessary but it is ineffective as it will serve no useful purpose ; so far as the administration is concerned, we shall have a mischievous, fissiparous tendency, and we do not know where we are going to stop.

The Honourable the PRESIDENT : The Council is adjourned to 2 p. m. tomorrow, Friday the 8th December 1922.

*Friday, the 8th December 1922.*

The Council re-assembled at the Town Hall, Bombay, on Friday the 8th December 1922 at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BELL, Mr. R. D.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CADELL, Mr. P. R.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHITALE, Rao Bahadur G. K.
COCKE, Mr. H. G.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DABHOLKAR, Mr. V. A.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DRAKHAN, WADERO MAHOMED PANAH
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI
GANDHI, Mr. C. M.
GAYASUDDIN JAUDDIN, Mr.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GODBOLE, Dewan Bahadur K. R.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA

Hatch, Mr. G. W.
Haveliwala, Mr. M. A.
Hayward, The Hon'ble Mr. M. H. W.
Hepper, Sir Lawless
Hood, Mr. A. J. F.
Jadhav, Mr. B. V.
Jennings, Major General W. E.
Kalbhor, Mr. G. M.
Kale, Rao Bahadur R. R.
Kambli, Mr. S. T.
Kanga, Mr. J. B.
Kassim, Mr. G. H.
Lalbhai Ambaram, Mr.
Lalji Naranji, Mr.
Lawrence, The Hon'ble Mr. H. S.
Ligade, Mr. S. P.
Lory, Mr. F. B. P.
Mead, Mr. P. J.
Mehta, The Hon'ble Mr. C. V.
Modi, Sardar Davar T. K.
Mohidinkhan, Khan Saheb Haji Hazrath Khan
Mohomed Salahuddin K., Mr.
Motiram, Rao Saheb Rupchand
Murphy, Mr. S. J.
Mutalik, Sardar V. N.
Nelson, Mr. F.
Nilkanth, Rao Bahadur R. M.
Nimbalkar, Mr. K. B.
Ojha, Mr. Dipchand T.
Pahalajani, Mr. B. G.
Paranjpye, The Hon'ble Dr. R. P.
Parulekar, Rao Saheb L. V.
Patel, Mr. B. P.
Patel, Mr. J. B.
Pawar, Shrimant J. A.
Pradhan, Mr. M. W.
Proes, Mr. E. M.
Rahimtoola, The Hon'ble Sir Ibrahi
Rothfeld, Mr. O.
Saherwala, Khan Saheb I. A.
Salgar, Mr. R. G.

SETALVAD, The Hon'ble Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY
SINDORE, Mr. H. N.
SURVEY, Mr. A. N.
THAKOR of AMOD, Sardar NAHARSINGHJI
THOMAS, Mr. G. A.
TRIVEDI, Mr. G. B.
WOODS, Mr. E. E.

The Honourable the PRESIDENT: Order, order. Questions.

PROVINCIAL EDUCATIONAL SCHEME.

Dr. K. E. DADACHANJI (Bombay City, South): Will Government be pleased to state—

(*a*) When the Secretary of State sanctioned the provincial educational scheme in November 1919, why did the Government of Bombay take twenty months to fix the intermediate grades ?

(*b*) What was the delay due to ?

(*c*) Why have officers been made to suffer for this delay on the part of Government ?

(*d*) Why did the authorities concerned take eight months to make recommendations for the filling up of twenty-one selection grade posts ?

(*e*) Has financial stringency been responsible for the keeping vacant of the selection grade posts in the provincial service of any other department ?

(*f*) If not, why is the provincial service of the Education Department singled out for this unequal treatment especially when, as suggested by the Government of India, it was to receive prior consideration ?

(*g*) Did the Government, in their resolution of June 1921, promise that selection grade posts will not be filled up, only if men of adequate capacity and experience were not available ?

(*h*) Excepting the five officers awarded selection posts are there none in the remaining hundred officers satisfying the condition of adequate experience and capacity ?

(*i*) If not, why has not the Government fulfilled their promise held out to them ?

The Honourable Dr. R. P. PARANJPYE: Parts (*a*)—(*d*) and (*g*)—(*i*) have already been answered.

(*e*) No.

(*f*) Attention is invited to the reply given to question No. 2 (*e*) put by the Honourable Member at the meeting of the Legislative Council held in July 1922.

QUALIFICATIONS AND EMOLUMENTS OF OFFICERS UNDER THE DEVELOPMENT DEPARTMENT.

* Mr. C. M. GANDHI (Surat City): Will Government be pleased to lay on the table of the House the following information with regard to men employed under the Development Department who are now drawing salaries above Rs. 100 ?

(*a*), (*b*), (*c*) * * * * * *

* This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

(*d*) Post and pay held before his employment in the Development Department.

(*e*), (*f*), (*g*) * * * * * * *

The Honourable Sir CHIMANLAL SETALVAD: (*d*) A statement* furnishing the information in the case of officers on pay of Rs. 500 and above is appended. As regards appointments on salaries above Rs. 100 and below Rs. 500, attention is invited to the answer given at the last March sessions, when the question was first put.

RETRENCHMENT.

†Mr. C. M. GANDHI (Surat City): (*a*) Will Government be pleased to state the total amount of retrenchment effected up to the date of this session of the Council in each department separately out of the total retrenchment of 60 lakhs promised to be made at the first session of the Council this year?

(*b*) Will they further be pleased to state how many and which of the appointments over Rs. 200 per month have been cut out?

The Honourable Mr. H. S. LAWRENCE: (*a*) * * * * *

(*b*) A statement‡ furnishing the information asked for is appended.

GOVERNMENT SCHOLARS IN GRANT MEDICAL COLLEGE.

Mr. D. D. GHOLAP: Will Government be pleased to state how many Government scholars are studying in the Grant Medical College, Bombay, and medical schools under Government control and what are their respective castes and sex?

The Honourable Dr. R. P. PARANJPYE: The information is given in the accompanying statement §.

GOVERNMENT SCHOLARS IN GIRLS' TRAINING SCHOOLS.

Mr. D. D. GHOLAP: Will Government be pleased to state how many Government scholars are in the training schools for girls and of what castes?

The Honourable Dr. R. P. PARANJPYE: There are no training *schools* for girls. The appended statement‖ gives the requisite information regarding female stipend holders in the different training institutions in the Presidency.

ADMISSIONS TO TRAINING COLLEGES AND TRAINING CLASSES.

†Mr. B. V. JADHAV: Will Government be pleased to state the number of students belonging to the advanced communities and those from the backward communities including the Marathas admitted into the training colleges and the training classes in the Central and Southern Divisions during the last three years? And what proportion do these numbers bear to the respective strengths of these communities?

The Honourable Dr. R. P. PARANJPYE: A statement ¶ giving the information asked for in the first part of the question is laid on the table.

The proportion which the number admitted bears to the total strength of the respective communities cannot be given. Admissions to the training colleges and schools are not made on the basis of proportional representation of the advanced and the backward classes, respectively.

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* *Vide* Appendix D. ‡ *Vide* Appendix E. § *Vide* Appendix F.

† This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

‖ *Vide* Appendix G. ¶ *Vide* Appendix H.

COMMUTATION OF KULKARNI WATANS.

Mr. B. V. JADHAV: Will Government be pleased to state:—

(*a*) The number of villages in the districts of the Central and Southern Divisions in which the kulkarni watan service is commuted and they are now replaced by stipendiary talatis?

(*b*) The number of villages in each district in the two divisions the kulkarnis of which are still officiating?

The Honourable Sir IBRAHIM RAHIMTOOLA: The appended statement* furnishes the information required by the honourable member.

LAND FOR HOUSES AT LONAND.

Mr. B. V. JADHAV: Will Government be pleased to state:—

(*a*) What is the area of the Gavthan of the town of Lonand?

(*b*) Whether the town is very congested and people are asking for more house sites?

(*c*) What area is now acquired by Government?

(*d*) What area is now left by Government to private individuals to build huts only?

(*e*) What is the rent charged per guntha per month?

(*f*) Whether it is a fact that the rent charged amounts to Rs. 480 per acre per mile (annum).

(*g*) What is the average price per acre at which Government acquired the land?

(*h*) Whether Government contemplate to acquire more area there?

(*i*) Whether Government intend to let it at the same rate of rent?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) 29 acres, 4 gunthas.

(*b*) The town is not very congested nor is there any keen demand for house sites at present.

(*c*) 41 acres, 2 gunthas.

(*d*) The whole area, *i.e.*, 41 acres and 2 gunthas. Permission is given to erect temporary huts to those applicants who agree to remove the structure and vacate the land on 15 days' notice without demanding any compensation for disturbance.

(*e*) Rupee one.

(*f*) The rent charged for such temporary structures amounts to Rs. 480 per acre per annum.

(*g*) Rs. 89-6-0.

(*h*) The matter is under contemplation.

(*i*) No reply can be given at present.

STUDENTS SENT ABROAD FOR EDUCATION.

‡ Rao Bahadur R. R. KALE (Satara District): Will the Government be pleased to lay on the Council table a list of candidates sent abroad during the last 10 years on Government scholarship, stating the subject each student took and also mentioning what these men are doing after their return?

The Honourable Dr. R. P. PARANJPYE: A statement† is laid on the table.

FINANCIAL POSITION OF SMALL MUNICIPALITIES.

Rao Bahadur R. R. KALE (Satara District): Is Government aware that the funds of many of the small municipalities are mostly consumed by the maintenance of the primary schools and civil dispensaries only, thus

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* *Vide* Appendix I. † *Vide* Appendix J.

‡ This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

leaving little or no funds for other matters of urgent public utility ? What steps Government propose to take in the matter ?

The Honourable Dr. R. P. PARANJPYE : Yes. It is for the municipalities concerned to take the necessary steps. Figures for some municipalities are given in the accompanying statement.*

CHANGE OF NAMES OF TALUKAS.

Rao Bahadur R. R. KALE (Satara District) : (*a*) Will the Government be pleased to state how many talukas have their headquarters with different names ?

(*b*) What action have Government taken to change the name of these talukas and name them after the name of their headquarters ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) *Vide* statement † attached.

(*b*) Already answered.

SUITS IN THE FIRST CLASS SUBORDINATE JUDGE'S COURT.

Mr. S. T. KAMBLI (Dharwar District) : Will Government be pleased to state—

(*a*) The number of first class suits filed in each of the first class subordinate judges' courts in the Presidency in each of the following years, viz., 1917-18, 1918-19, 1919-20, 1920-21, 1921-22 ?

(*b*) The number of first class suits over a year old pending in each of these courts at the end of July 1922 ?

(*c*) The total number of first class suits pending in each of these courts by the end of July 1922 ?

The Honourable Mr. M. H. W. HAYWARD : A statement‡ containing the information asked for is placed on the Council table.

REVENUE DEMAND FROM COURT FEE AND GENERAL STAMPS.

Mr. S. T. KAMBLI (Dharwar District) : Will the Government be pleased to state—

(*a*) The revenue derived (i) from the sale of court fee stamps, and (ii) from the sale of general stamps for the period from 1st April 1922 to the 15th of August 1922 ?

(*b*) What was the revenue from these sources for each of the corresponding periods of the last two years ?

The Honourable Sir IBRAHIM RAHIMTOOLA : A statement § giving the requisite information is laid on the Council table.

REVISION OF PAY OF SHETSANADIS.

Mr. S. T. KAMBLI (Dharwar District) : Will the Government be pleased to state—

(*a*) Whether the pay of shetsanadis in the Dharwar district is revised ?

(*b*) If so, from what date ?

The Honourable Sir IBRAHIM RAHIMTOOLA : (*a*) Yes.

(*b*) (i) In the case of shetsanadis who are remunerated in land—

1912-13 in Gadag and Navalgund talukas.

1910-11 in all other talukas.

(ii) in the case of shetsanadis who are remunerated in cash—1st April 1922.

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* *Vide* Appendix K. † *Vide* Appendix L. ‡ *Vide* Appendix M. § *Vide* Appendix N.

GIRAS ALLOWANCE TO THE THAKORE OF DEHVAN.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Will Government be pleased to state—

(*a*) Whether the Thakore of Dehvan was called upon by the Collector and District Magistrate of Kaira to employ six armed men to work as police guard for the village of Ras ?

(*b*) whether Ras does not belong to Thakore of Dehvan but is a khalsa village ?

(*c*) Why is the Thakore of Dehvan considered to be bound to take measures for the protection of the village of Ras ?

(*d*) Whether on the failure of the Thakore to carry out the requisition, payment of his Giras allowance has been stopped ?

(*e*) Whether the estate of the Thakore is under the management of Collector ?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) Yes.

(*b*) Ras is a khalsa village.

(*c*) Because the kalambandhi of Ras states that giras allowances were given to the Girassias of Dehvan for the protection of this village.

(*d*) Yes.

(*e*) Yes; under the management of the Collector as Talukdari Settlement Officer.

GIRAS ALLOWANCE OF TALUKDARS IN KAIRA.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): With reference to the answers given by Government on 26th February 1922 to my questions (*b*), (*c*) and (*d*) on Giras allowance of talukdars in Kaira (*vide* Bombay Legislative Council Debates, Volume V, Part I, page 49), will Government be pleased to state—

(*a*) Whether the Collector of Kaira sent memorandum No. W.T.N.-333, dated 17th December 1920, to the Thakore of Dehvan calling upon him to sign an agreement about Giras allowance of which copy was sent with the memorandum and informing him that if he refuses to sign the agreement, his case will be submitted to Government for forfeiture of the agreement ?

(*b*) Does this agreement make any alteration in the sanad previously given to the ancestors of the Thakore Saheb, guaranteeing them payment of the allowance; if so, in what respects ?

(*c*) If the agreement makes no alteration in the sanad, why is its execution required ?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) Yes.

(*b*) No. The Thakore was asked to produce the original sanad given to him and the agreement attached to it; but he failed to do so.

(*c*) As the Thakore declared that he did not know the conditions subject to which the giras allowance was to be continued, a copy of the agreement was sent to him for his information and for his signature in token of his agreement to abide by its conditions.

NOMINATIONS IN MUNICIPALITIES AND LOCAL BOARDS IN CENTRAL AND SOUTHERN DIVISIONS.

* Mr. K. B. NIMBALKAR (Nasik District): Will Government be pleased to furnish the following information in a tabular form ?

* This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

The number of the Brahmins, the Marathas, the Lingayats, the Jains, the Mahomedans, the Christians and the other non-Brahmins nominated by the Government in the various municipalities and local boards in the Central and Southern Divisions ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: A statement * is laid on the table.

GRANT OF LAND TO MAHADEV DEVASTHAN IN PAROS AT DOHAD.

‡Khan Saheb ISMAILJI ABDULHUSSEN SAHERWALA (Northern Division): (*a*) Will Government be pleased to state on what conditions land in Paros at Dohad (Panch Mahals) has been given to Mahadev Devasthan ?

(*b*) Whether it is true that the managers of the Devasthan have built shops on the land and have thereby deprived Dalals and Merchants of use of the land for purpose of meeting on the land to do business ?

(*c*) Whether constructions of shops on the land contravenes the conditions of the grant ?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) 37 square yards of land round the existing temple of Shriman Kameshwar Mahadeo in cart stand at Dohad was given revenue-free in the year 1913 to the manager of the temple for a platform round the temple and for building a pigeon house, subject to the conditions laid down in sub-clauses (*a*) and (*b*) to rule 36 (1) of the rules under section 214 of the Land Revenue Code.

(*b*) It is a fact that the manager has built two shops of corrugated iron sheets below the pigeon house from subscriptions raised by the Mahajan. The rent received on account of these shops is spent under the supervision of the Mahajan for feeding birds.

(*c*) Yes. Government have issued orders to levy occupancy price at the full local rate as well as ground rent on the whole of the area granted.

FATAL ACCIDENTS IN SHUNTING YARDS.

Mr. A. N. SURVE (Bombay City, North): (*a*) Are Government aware that fatal accidents occur at Bombay in the shunting yards of the B. B. and C. I. Railway and G. I. P. Railway on account of laxity of supervision while shunting the wagons ?

(*b*) Will Government place on the table the number of such accidents and the circumstances under which they occurred during the past five years ?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) and (*b*) The statement † of fatal accidents in shunting yards of the G. I. P. and B. B. and C. I. Railways in Bombay is laid on the table.

Mr. A. N. SURVE: May I know whether Government propose to take any steps to prevent such accidents ?

The Honourable Sir IBRAHIM RAHIMTOOLA: That is a suggestion for action.

LEVY OF NON-AGRICULTURAL ASSESSMENT.

Mr. G. B. TRIVEDI (Thana District): What is the Government's justification for levying non-agricultural assessment on their own lands used for stacking and pressing their own grass by the land-owners ?

The Honourable Sir IBRAHIM RAHIMTOOLA: Lands used for setting up grass pressing machines or for the storage of grass bales is liable to be assessed

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* *Vide* Appendix O. † *Vide* Appendix P.

‡ This question was asked at the meeting held in February 1922, when an *ad interim* reply was given.

by the Collector with reference to the situation, facilities and profits of the land. The levy of non-agricultural assessment in such cases is a matter for the Collector's discretion. It is presumed that the member refers to the Thana District. The practice followed in that district is not to levy non-agricultural assessment when owners use their own land for bailing or storing their own grass.

GRANT OF GURCHARAN LAND.

Mr. G. B. TRIVEDI (Thana District): (*a*) Will the Government be pleased to state on what conditions about 3,500 acres of *gurcharan* land at Mahim in Mahim taluka were given to Mr. Motibhai Bhikaji ?

(*b*) Is the land now in possession of Mr. Jamshedji Khudaram Irani ?

(*c*) How much of this land is used for fishing purposes by Mr. Irani ?

(*d*) Has he built a dam for the said purpose ?

(*e*) Does the dam prevent the rubbish of the village from being washed away by the sea water ?

(*f*) If so, what steps have Government taken to get the dam removed ?

The Honourable Sir IBRAHIM RAHIMTOOLA: (*a*) Gurcharan land measuring 2,334 acres 2 gunthas was granted to Motibhai Bhikaji on reclamation lease for 999 years on 1st August 1890.

(*b*) Yes.

(*c*) Land approximately measuring 175 acres is used for fishing, as rain water accumulates on the land on account of the dam erected for reclamation purposes.

(*d*) No. The bandh in question is erected for the purpose of reclamation of the land granted in 1890.

(*e*) There is no reason to believe that the erection of the dam prevents the village rubbish from being washed away by the sea water. The distance of the dam from the village is nearly a mile and a half, while the creek-mouth is only half a mile distant from the said village.

(*f*) In view of answer to (*e*) this question does not arise.

## LOCAL BOARDS BILL (BILL No. XVI OF 1922).

(Debate on clauses continued.)

Question again proposed that clause 6 do stand part of the bill.

Mr. C. M. GANDHI (Surat City): Mr. President, yesterday, when the debate was stopped, I was enquiring as to where we were going to stop. For we find that the Mahomedan member for Ahmedabad and Surat cities not only wants to have separate communal representation on the district local boards, but he wants 20 per cent. Mahomedan representation even on the school boards.

The Lucknow pact was arrived at deliberately as a sort of compromise between the conflicting interests, the supposed conflicting interests, of the two communities, and it was confined to Legislative Councils only. Once the concession was made to that demand in order that the nation as a whole can make a combined representation to Government, the demand is now being made for communal representation on the district boards and school boards, which is likely to go further down. If we grant this concession, with what justice can we resist a similar demand which may be made by other communities ? If this concession is once granted, I do not know where this mischievous tendency will stop. National and provincial interests will suffer,

[Mr. C. M. Gandhi]

because of it. Therefore, I say every sensible man ought to set his face against it. If this does not satisfy my honourable friends, I shall make another concession in their favour, namely, by giving them reserved seats to be filled in by election by the general body of electors. It may be said that persons so elected may not be representative of Mahomedan interests; but I fail to see what separate Mahomedan interests there can be in local affairs. In the affairs of local boards, all affairs, whether Mahomedan or non-Mahomedan, are of common interest. If, therefore, a Mahomedan representative is returned by this electorate, he will have to serve the interests of the whole taluka or district. Otherwise they will be governed by clanish interests, which would be detrimental to the interests of the country. So far as affairs of the district and taluka are concerned, there are no Mahomedan interests as such to be served. It is, Sir, in the hope of placing this view before the Council I have brought forward this amendment. I hope the honourable members of this House will, actuated as they are with the best interests of the country, give their considered approval to this amendment.

The Honourable the PRESIDENT: Will the honourable member please formally move the amendment, because no one is entitled to speak until I propose it to the House?

Mr. C. M. GANDHI: The amendment runs as follows:

"In clause 6, leave out the words 'general and Mahomedan constituencies' and insert instead 'by persons qualified to vote at elections of members of the said local board and whose names are entered in the revised list of voters published under section 14'."

The Honourable the PRESIDENT: Is that grammatically correct?

Mr. C. M. GANDHI: The word 'and' must be dropped before the word 'whose'.

The Honourable the PRESIDENT: Then the amendment would read thus:

"In clause 6, leave out the words 'general and Mahomedan constituencies' and insert instead the words: 'by persons qualified to vote at the elections whose names are entered in the revised list of voters published under section 14'."

Mr. C. M. GANDHI: They must be qualified to vote.

The Honourable the PRESIDENT: Persons whose names are entered in the list are qualified to vote.

Mr. C. M. GANDHI: Sometimes they are not.

The Honourable the PRESIDENT: Then it will be "by persons whose names are entered in the revised list of voters published under section 14". Does that bring out his meaning?

Mr. S. J. MURPHY (Legal Remembrancer): Yes.

The Honourable the PRESIDENT: Question proposed—

that in clause 6, lines 1 and 2, leave out the words "general and Mahomedan constituencies" to insert instead the following words, namely: "by persons whose names are entered in the revised list of voters published under section 14."

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Sir, this amendment is in effect identical with the amendment proposed by me, and I therefore beg to support it. It is indeed unfortunate that the first measure for the expansion of local self-government brought into the reformed Council of this Presidency should introduce such a fissiparous element as communal

[Rao Bahadur R. M. Nilkanth]

representation for Mahomedans; the more so as the Government of Bombay had in the immediately preceding pre-reform days distinctly pronounced that such communal representation was not required. The Mahomedans are not so separated and isolated from the general life of the Indian public as to require separate representation in local bodies. They have no separate interest in matters dealt with by local bodies. Hindus, Mahomedans and other communities look upon themselves as parts of one entire Indian public, and the introduction of communal representation would retard nation-building by substituting distance and distrust in place of unity and confidence. Instances of Mahomedans being elected to municipalities and local boards by constituencies comprising a majority of Hindu voters are not rare. On local bodies members have a higher worth and a greater degree of public esteem when they represent constituencies composed of all communities than when they represent a separate community. Detachment of any community in public interests is harmful to the community detached, to the communities from which it is detached, and, to the country as a whole. The concerns dealt with by local boards are such as can be administered by representatives of the people to whatever community they may belong and to bring on special representatives of a community elected as such is to sow dissension and discord. There have been no complaints that the interests of Mahomedans have suffered in the local boards as they are constituted at present. I would, therefore, submit that this proposal to introduce communal representation in the local boards is unwise and is inimical to the best interests of the country. This question was debated upon at length at the first reading of the bill, and I will not take up the time of the Council by arguing this point at greater length. I would urge that this aspect of the matter should not be lost sight of.

Khan Bahadur S. N. BHUTTO (Larkana District): Sir, we have gone deaf by the cry of Hindu Mahomedan unity all over India. The leaders of the two communities preach from public platforms all sorts of things, of self-sacrifice and their fitness to claim self-government, but when we come to actual facts, we find there is no unity at all between the two communities, or the unity is only a surface one. The recent proceedings in the Council have shown us that honourable members usually attach great weight to the report of the select committee and are not inclined to effect any change in this important document, and that is of course the only right view that this House should always take. But in this case even this valuable document, it appears, has lost its importance with our friends who appear to be so apathetic towards Mahomedan claims that they do not hesitate for a second to hurt the feelings of their Mahomedan friends. When the Mahomedans ask for nothing but what is due to them, our friends here, instead of showing good grace, raise the cry of opposition. May I ask what has the Mahomedan Minister in charge of the bill given us? He has given us nothing in comparison with what was agreed upon by Hindu and Mahomedan representatives at the Indian National Congress and All-India Moslem League sittings at Lucknow. There it was decided that Mahomedans should get one-third of the seats in the Council where they are in minority, and this is only an extension of that principle. This principle has been recognised by some of the local Governments in other parts of India already. I would suggest that the Mahomedans in the Presidency proper should get one-third of the seats, whatever their population may be, as in the case of this Council, but the bill gives the Mahomedans seats

[Khan Bahadur S. N. Bhutto]

only in proportion to their population, which is nothing, as the Mahomedans will not have more than one or two seats in each of the districts—a drop in the ocean. Let our Hindu brethren, who are opposing the provision with one pretext or other, note that their community in Sind will get between one-third to one-fourth of the total seats, where they stand very little chance otherwise. Therefore, both the communities are to gain by communal representation. The Minister in charge of the bill ought to have shown sufficient courage by providing seats to Mahomedans on the Council basis. It is strange that even a bill of this kind which does not improve or better the prospects of the Mahomedan community very far could not be tolerated by some of our Hindu brethren. Unfortunately, when one sees on all occasions strong opposition raised by our friends on every question concerning Mahomedan interests, one feels confident that there exists no Hindu-Mahomedan unity at all, and the outside world is simply deceived by our hypocritic policy. Really, Sir, we curse the day the reforms were granted. We were much better off as we were. Do my Mahomedan brethren realise—God forbid—if full self-government is granted what pitiable condition ours will be? Therefore, I beg my Mahomedan brethren to beware of these catch-words of Hindu-Moslem unity. With these words I oppose the amendment.

Mr. G. B. TRIVEDI (Thana District): Mr. President, if I have decided to take part in this debate, it is with a sense of responsibility and knowledge of what I am saying. I did not take part in the debate on this question at the first reading of the bill and I have carefully noted what was said at that time on both sides. I have carefully read the arguments of the Honourable Minister and I sympathise with the claim that has been made on behalf of his community. I do wish to say that a nation cannot advance while there are some component parts of it left behind. A strong man cannot advance much by leaving behind his weaker brethren. From that point of view I always stand for giving special facilities for backward communities, whether they be Hindus or Mahomedans, or depressed classes, to train themselves up in the art of administration of local self-government, whether it be in a municipality or a local board. I do feel, Sir, that when we are liberalising the franchise we should give equal opportunity and even special opportunity to those who, owing to their backwardness, are not able to take advantage of those facilities. I do sympathise with the claims of any backward community, Hindu or Mahomedan or the depressed classes or anybody else in similar circumstances. I do recognise the necessity of giving them an opportunity and I do feel that the best way to train a man who aspires to do public service is to put him on a taluka board or a district local board. But considering all things, I will now ask my honourable friend the Minister in charge whether he will not agree to the suggestions made last time by my honourable friend from Bombay (Dr. Batliwala) or to the offer made to-day by my honourable friend from Surat that Mahomedans should be satisfied with reserved seats which should be fixed in consideration of the voting strength, the rating strength and the numerical strength of the local Mahomedans in proportion to the whole community. On these three conditions, let Government fix the number of seats that should be given to Mahomedans in each taluka and in each district. When that is the case, then, let Mahomedans come in through a mixed electorate. That would serve the purpose of both sides. That would give my Mahomedan friends the opportunity which they desire of training themselves in local administration. At the same time it

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will give my Hindu brethren the satisfaction that their Mahomedan friends who will be elected on the boards will be of a separate type—not fanatics—but men who will work in public life in harmony with all other communities. Do we not find such harmony in even rural life? I have some experience of rural life and I can say that there are no separate interests and that Mahomedans and Hindus live quite amicably. Even then I do grant the necessity of giving them an opportunity, I do grant that if I am advanced and my brother is left behind, my progress will be hampered. I do grant that it would be hindering my progress and from that point of view I am prepared to support any attempt that may be made to give reserved seats to Mahomedans from a mixed electorate. I say that this experiment is being tried in the sister province of Bengal. The Honourable Minister there in charge of local self-government is known to the House, he is the second Grand Old Man of India, Sir Surendra Nath Banerjee, who was a party, when he was in the old Congress, to the Hindu-Mahomedan pact. He has fought for it and no man has done so much for the unity of these two communities in our public life as that Grand Old Man, and these are the words he used in support of his proposition that Mahomedans should be given reserved seats from mixed electorates. He says:

"A member who comes by the mixed electorate would share the confidence of both Hindus and Mahomedans, and it is very obvious that he cannot be either a Hindu or a Mahomedan extremist, for any element of fanaticism would deprive him of the votes of one or the other electorate. Do you want extremists or men of moderate views in the local bodies—men who would make the local bodies worthy adjuncts of the reformed Councils and supply a training ground for the future electorates of the province? Let the Council answer. I have no doubt as to what the answer will be."

With that experience and with that speech before us, I hope my Mahomedan friends will agree to this compromise, and I hope that the Honourable the Leader of the House, having worked in the old days for smooth relations between the two communities on this very principle, will use the weight of his influence and position to support this compromise, so that it may not be said that the Hindus and Mahomedans were divided in our Council on this question.

Secondly, Sir, this experiment is not a new one. It has been tried in the case of our non-Brahmin friends. Our non-Brahmin friends asked for some recognition of their rights in the councils and rightly too, so that we have this experience before us of this very Council in the case of the non-Brahmin community and we need but follow the same example in the case of local bodies. As I say, try the experiment for some time, and if that fails to bring about the desired result, then come and say to us that the experiment was not successful and that there was disunion rather than union, and if you come afterwards to us with that experience, then we will readily support any special claim for separate electorate. But at this stage I appeal to the Honourable Minister to agree to this compromise. It was said, Sir, by the Honourable the Finance Member at the time of the first reading that it is human nature to look to vested interests, and that if Hindu members were opposing communal representation for Mahomedans, it was from that view. I agree that it is human nature to look to vested interests, but I do not agree that my Hindu honourable friends from Ahmedabad, Ahmednagar and Surat have opposed it from that point of view. We have always stood above these considerations of communities and castes. That being the case, how could we oppose the representation of Mahomedans on local bodies out of such considerations? We rise, and try to rise, above these differences of caste and creed and take a wider outlook, and from that point of view we are proposing this compromise, and if we go on dividing

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on such subjects everywhere, then it will be clearly seen that we will not have unity. The Honourable Minister advanced one argument and said that in some cases Hindus cannot represent Mahomedans. Now, in the first place, there are not questions of separate interests in every-day administration. I do admit that certain differences are not impossible, but that only shows that they are exceptions. Reference was made to burial grounds and mutton markets. Now take the case of the mutton markets. There are Hindus who are mutton eaters, and in my own district for instance, it has happened that certain Hindus who were mutton eaters wanted a mutton shop at a particular place and the other Hindus objected to the location of that shop in a particular locality and there was much bitterness. But what does it testify? Does it testify that these two kinds of Hindus, the mutton eaters and the non-mutton eaters, shall have separate representation on local boards and municipalities? There are instances of bitterness amongst Hindus also, but there is no justification for separate representation on that account. Now, as regards burial grounds, I have never heard of any insult being done to burial grounds, and if it is done, there are other ways open to you. There are other remedies, for instance recourse to law. From the little experience I have of rural areas, I think it is not in every-day life that there are these occurrences, but these are not reasons for which you can ask separate representation. I can understand one's asking separate representation in case it is proved that the Mahomedan interests suffered in the past owing to the want of their special representation. But the Honourable Minister himself admits, and he himself is proud and I am also proud of that fact, that, after giving separate seats on this Council to Mahomedans, there are no racial questions raised by my Mahomedan friends in this Council. I am proud of that fact and I say, when in the Council that is our experience, much more will that be our experience on local boards. Therefore, I appeal to my Hindu friends to agree to this compromise and on the other side I appeal to the Honourable the Leader of the House and to the Honourable Minister to agree to this compromise.

Mr. DIPCHAND T. OJHA (Karachi City): On the last occasion, Sir, when the bill was brought forward for the first reading, I spoke in favour of communal representation and the select committee, I find, have also come to the conclusion that some kind of communal representation should be allowed. At the first reading of the bill a good deal of discussion took place on both sides and I daresay, Sir, in the select committee this matter must have been considered at considerable length. But it appears that the majority of the select committee are in favour of the provision made in the bill which is now before us. Some discussion has been led on this point up till now, and I am afraid it is possible that a good deal of it will yet take place whether the communal representation should or should not be allowed. Now, the consensus of opinion on this side of the Presidency seems to be that communal representation is supposed to be detrimental to the good of the people and that communal representation should not be allowed. On the last occasion, on this very ground I pointed out very clearly to the Council that communal representation should be allowed in order to see that unity is secured. I may, Sir, tell the Council that so far as Sind is concerned, as I said before, it consists of a majority of Mahomedan population, and therefore my information as regards Sind is that, so far as communal representation has been in force in Sind, it has maintained unity between the different parts of the province of Sind. I may quote as an instance the case of

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the Karachi municipality. There is now a communal representation in Karachi because Karachi is a cosmopolitan place and consists of a population of Parsis, Mahomedans, Christians, Europeans, Indo-Europeans and Hindus, and there are in the Karachi municipality Parsis, Europeans, Indian Christians and Mahomedans also. The reason why communal representation is going to be allowed in Sind on the local boards is that there the Hindu population is said to be in the minority.

The Honourable the PRESIDENT: Communal representation in respect of what government?

Mr. DIPCHAND T. OJHA: In respect of local self-government. It is now proposed to introduce this element in Sind in respect of local boards.

The Honourable the PRESIDENT: What is the condition of things now?

Mr. DIPCHAND T. OJHA: The condition of things now is that there is no communal representation so far as local boards are concerned, but, so far as municipalities are concerned, there is communal representation in existence.

The Honourable the PRESIDENT: And as regards the Presidency proper, does communal representation obtain as regards municipalities?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Yes, Sir.

The Honourable the PRESIDENT: I am asking that question only for the purpose of fortifying myself with regard to the point of order that I have ruled yesterday. I understand that in the Presidency proper communal representation does not obtain as matters stand at present in regard to municipalities or local boards, but in Sind it does in the case of municipalities only. Is that so?

Rao Bahadur G. K. CHITALE: There is now communal representation in all the municipalities in the Presidency proper.

The Honourable the PRESIDENT: I only want to know whether there is any distinction made upto now.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Yes, there is distinction made as regards model municipalities.

The Honourable the PRESIDENT: I want to know whether any distinction has existed up to now between the Presidency proper and the province of Sind in respect of either municipal or local board administration.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: As regards municipalities in Sind, Government by an administrative order have given communal representation to the Mahomedans of Sind in the municipalities. Similar orders have been issued as regards the Presidency proper to divide the electorates into Mahomedans and non-Mahomedans.

The Honourable the PRESIDENT: I want it only for my information for the purpose of the later amendment of the honourable member from Sukkur, Mr. Pahalajani, which I said yesterday is in order.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Orders have been issued that the wards should be divided as regards Mahomedans and non-Mahomedans both in the Presidency proper and in Sind.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, I have been in charge of the local self-government portfolio and I will explain how the matters

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stand. It has been the case for some years that communal representation has been introduced in certain municipalities in Sind by an executive order of Government and now it has been in operation for some years.

The Honourable the PRESIDENT : I am merely asking for information so as to see whether it would affect my ruling yesterday with reference to Mr. Pahalajani's amendment. I thank the Honourable the Leader of the House for this information.

Mr. DIPCHAND T. OJHA : From the information which has been now before the House I submit that, so far as the Presidency proper is concerned, up to now there has not been separate representation in the municipalities in the Presidency proper, but in Sind it has been for a long time, and I can say from my experience that this communal representation has rather led to unity between the different communities than otherwise. I quite see the force of the argument of my honourable friend the mover that, if we allow this kind of distinction, the result will be that the two communities will be divided and become clannish or, as my honourable friend from Larkana observed, that there may be a difference of opinion. Every reasonable man will understand that by doing this some kind of disunion may arise if the representatives of different communities on the municipal and local boards are men of peculiar ideas. I must say, Sir, that this Council is not composed of representatives of any particular province of the Presidency, but of the different parts of this Presidency, and so the different parts of the Presidency are represented here. I have been noticing, Sir, that whenever any select committee considers any question which is supposed to be of a general interest to different parts of the Presidency, such a question is not properly considered. I shall come to this point later on. But I submit, Sir, that if honourable members of this Council from different parts of the Presidency are placed on the select committee, they will be very useful to the committee in placing the particular needs of their parts of the Presidency. For instance, if I had been on the select committee, I might have placed before the committee the advantages of communal representation in my part of the Presidency and would have proved to the satisfaction of the select committee that it is not so very offensive or dreadful as they think it to be.

Now, Sir, how are we going to decide this question ? The question before the Council is whether communal representation is or is not to be allowed and, if it is to be allowed, in what form it should be allowed. How are Government going to decide that question ? Sir, as I have said, different parts of the Presidency stand on different footing. Sind consists of several parts and the greater population of that province are Mahomedans and I myself coming from the province of Sind can certainly take better care of the interests of the different communities of Sind, and knowing the conditions of the different parts of the province of Sind, I would have suggested a better method and a better solution of the problem as to how the people of Sind, whether Hindus or Mahomedans, or Parsis and others, should be represented proportionately. That being the case, my argument is that, as it is admitted that Mahomedans residing in the Presidency proper will not in any way suffer if communal representation is granted, I fail to see why communal representation should not be given, whereby the province of Sind will gain. I say that if communal representation is allowed so far as Sind is concerned, the Hindus there will gain and will not lose. In the Presidency proper it has not been pointed out which section of the community, Hindus or Mahomedans, will gain or lose, the argument being

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that even if no communal representation is allowed, Mahomedans will not suffer in any way. But I submit to the Council that the Hindus of Sind will suffer if it is not allowed, and if my honourable friends have any idea of the province of Sind, they will know under what hardship the Hindus there will be if they are not properly represented on the local boards.

Now, it is being admitted by slow degrees, as I find two or three of my honourable friends doing here, that if proper representation is to be allowed to all communities, Mahomedan and non-Mahomedan, general mixed electorates should be sanctioned, and a suggestion has been thrown out to the Honourable Minister in charge of this bill to consider the matter over and decide whether or not, instead of general and Mahomedan constituencies, he will have a general mixed electorate, and see whether his object cannot be gained in that way. It is a mistake on his part to say that by means of this mixed electorate Mahomedan interests will not be properly represented. This question has been considered a good deal in places where communal representation was more or less in force. I submit, for the information of members of this Council, that so far as Karachi is concerned, we have communal representation—separate electorates for Parsis, Jews, Christians, Mahomedans, Europeans, and so on. Seats are reserved for each community according to the number of voters or the strength of population. But just before I left for Bombay, the Karachi corporation came to the conclusion that instead of having separate representation, which is in existence now, the best course for the Karachi municipality will be to have a mixed electorate. Instead of having communal representation, which was being discussed in the Council on the last occasion, and which is being discussed now, the municipality has come to the conclusion that it is better to have mixed electorates, and they are going to submit a scheme on those lines to the local Government for its sanction, and it is hoped that the Government, looking to the present times, will see their way to accede to the wishes of the municipality. I think the best thing for the Honourable Minister in charge of the bill to do, in order to avoid all criticism, will be to say that mixed electorates will be given. So far as the interests of the Mahomedans are concerned, speaking from my experience in Karachi, the Mahomedans will have no opposition to it. They have all realised that mixed electorates will do more good than evil, and if my honourable friends are of opinion that the object of giving communal representation is to divide and rule, this suspicion will be removed if mixed electorate is granted. They are coming now to the opinion that instead of having communal representation mixed electorates will be better, and Karachi has taken the lead so far as that is concerned. It seems to me to be the opinion of some of my honourable friends here that these mixed electorates should be favourably considered and thereby their opposition to communal representation would be waived. I again hope that the Honourable the Minister will see his way to reconsider his proposal to avoid all criticism and remarks to be made on this particular portion of the bill hereafter.

The Honourable the PRESIDENT: I want to remind honourable members who have sent in amendments to this clause that they should take part in this discussion whether they are for the present amendment or against it. I have selected Mr. Gandhi's amendment as the one which gives the widest scope for discussion. I will not allow any excuse afterwards. This is the occasion for speeches; afterwards we shall be much more businesslike and merely deal with the amendments in very short speeches. I again repeat that

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request; no excuse will be allowed afterwards on the ground that I took honourable members unawares.

Mr. A. P. CHAUGULE (Belgaum District): Mr. President, it seems to me, looking to the trend of the discussion in this House, that separate representation in some form or other may be granted to Mahomedans. Arguments have been advanced for and against communal representation, and for and against plural constituencies in the general electorates. I might point out that by the Hindu-Moslem pact, Mahomedans have got a separate representation in the reformed councils, and that has done an amount of good. I maintain, Sir, that what is true of the reformed councils is also true of the lower institutions, such as the municipalities and local boards. Is that step calculated to separate the two communities still wider, or is it one which will deliberately lead the two communities together? Taking the Belgaum district for instance, we have got eight talukas and ten electorates returning one candidate each on the district local board and the House will be surprised if I tell them that not one Mahomedan has been returned. The Mahomedans are in all about 7 to 8 per cent. in the district, and, according to their voting strength as well as numerical strength they ought to have at least one member. How are we going to arrange mixed electorates in order that Mahomedans may be returned? Are you going to make the whole district one electorate and ask the voters to vote in the general and Muslim constituencies? That will be a very cumbrous arrangement. What is true of the Belgaum district is also true of most of the other districts in the Presidency proper. I therefore submit that the House would be well advised in opposing the amendment. Communal representation according to the numerical strength of Mahomedans is the best safeguard that can be provided in this bill. Now, Sir, according to the numerical strength of the Mahomedans, if we analyse the returns at elections, one is disappointed to see that Mahomedans are seldom returned. The case is more or less otherwise in municipalities. As regards local boards, the result is extremely disappointing. So, I submit that this amendment should be rejected.

Mr. S. T. KAMBLI (Dharwar District): Sir, I rise to oppose this amendment. The provision for special constituency for Mahomedans is in my opinion justified by reason of inadequate or in some cases absence of representation of Mahomedans in the district local boards. The district from which I come has got to elect 14 members to the district local board, and from my experience for the last so many years I say that I have not seen a single Mahomedan returned as a member of that district local board, though some Mahomedans are appointed as nominated members by Government sometimes. Under this circumstance, it is necessary that there should be some provision for the representation of Mahomedans on the board. The provision made in this bill is one of the ways for giving adequate representation to the Mahomedan community. Sir, when communal representation is accepted in the case of Mahomedans with regard to Councils, I fail to see why that very form of representation should not be adopted in the case of local boards. Sir, the honourable mover of the amendment urged some grounds of objection against granting this separate representation to Mahomedans. Those grounds of objection have been merely taken from the Montagu-Chelmsford Report. The authors of the report say that communal representation is opposed to the teaching of history; it creates class and communal jealousies; and it hinders

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the growth of citizen spirit. These objections, Sir, I may point out, may be sound from a theoretical point of view, but experience has proved that they are inaccurate and unsound in practice.

With regard to the first objection, that communal representation is opposed to the teaching of history, I may point out that those teachings refer, perhaps, to the teachings of the history of other countries. The political condition of India is different from the political condition of other countries. Therefore, I am afraid we need not go to the teaching of the history of other countries. The political history of India is still in its making. We have yet to learn from experience whether a particular form of constitution or representation is suited to the political condition of India or not. So, the objection based on the teaching of history can safely be discarded.

As regards the perpetuation of communal differences and partisan spirit, and the hindrance to the growth of the spirit of citizenship, experience of the last two years in this Council has shown that those grounds are totally false. This Council is mainly composed of representatives who have been returned by communal electorates. We have not seen any communal jealousies or any spirit of partisanship in this Council nor has there been a lack of the spirit of citizenship. There has been harmonious working, and all the members returned from communal electorates have been taking part in the discussion of important questions with the same amount of zeal and spirit of citizenship as the members from the general constituency. They are as much citizens as members from the general constituency. Having this experience before our eyes, how can we say that communal representation is a hindrance to the growth of the spirit of citizenship, and that it creates communal jealousies? I submit, Sir, that these opinions are antiquated and do not hold water in the present political condition of India. On the other hand, these communal electorates have done one good thing, and it is this: those communities who have been given communal representation in some form or other have roused themselves from their lethargy with regard to the political questions of this Presidency. What we now see is, that these communities which have been given communal representation, these withered limbs of the body politic, have been gathering strength, and they are helping the whole body politic in the onward march of the political progress of this Presidency. The teachings of history referred to in the report may be the teachings of the history of other countries. So far as this Presidency is concerned, the experience of this Council is a sufficient answer to the arguments advanced that communal representation will create communal jealousies and so on. All the arguments that have been advanced, and advanced with so much zeal and energy, by the mover of the amendment have been proved, by the experience of the working of our Council, to be absolutely untenable; they may appear valuable in theory, but are unsound in practice. Let us profit by the experience of the last two years. Let us concede with grace this demand of our Mahomedan friends for communal representation instead of giving room for doubt or suspicion in their minds. With these remarks I oppose the amendment of my honourable friend.

Khan Saheb I. A. SAHERWALA (Northern Division): Sir, I oppose the amendment. In the Godhra taluka, only one Mahomedan was elected and not a single one in the Halol and Kalol talukas. This clearly shows that if separate constituency is not given to the Mahomedans, they will be nowhere and their position will be even much worse than that of the depressed classes. The report

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emerging out of the select committee with separate constituency for Mahomedans is a statesmanlike one and this Council will do well not to disturb it. With these words I strongly oppose the amendment of the honourable member from Surat.

The Honourable Dr. R. P. PARANJPYE : Mr. President, I rise to oppose this amendment. I may assure honourable members of this House that I am doing that not with any great satisfaction. I feel that if in this Presidency we could do without communal electorates of this kind, it would have been a far more satisfactory state of things. I have tried to consider for myself whether it was in any way whatever possible, according to any electoral machinery whatsover, to get out of this alternative of having separate communal electorates in the constitution of our local boards, and it is because I feel that no reasonable alternative can be found for these communal electorates that I am unhappily reduced to support a principle of this nature to which on theoretical grounds I am entirely opposed.

Mr. President, we have been told that it might be possible to get suitable representation for Mahomedans by the constitution of mixed electorates and by reserving a certain number of seats for the Mahomedans in these mixed electorates. I do not think that with the population of the Presidency, constituted as it is, it is possible for us to form mixed constituencies and to reserve a seat for Mahomedans. Take, for instance, the illustration given by my honourable friend from Belgaum. He told us that in that district there are eight talukas and it is probable that in the district local board of Belgaum there might be about 24 elected members, so that on an average each taluka would have to elect about three members. Now, supposing it is proposed to reserve one seat in each taluka for the Mahomedans what would happen is that out of these 24 elected members eight will be Mahomedans. Now, the population of Mahomedans in the Belgaum district is about 10 per cent. The natural proportion of Mahomedans, therefore, in the district local board of Belgaum would be something like two or three. It is, therefore, not possible in fairness to the other communities to reserve a single seat for Mahomedans in each taluka. And I do not believe that it is proposed to constitute for the district local board constituencies on a wider size than a taluka. I myself feel that the taluka as a whole is just the possible size that we can have for our constituencies, and therefore it is not possible, Sir, to reserve seats on each of these constituencies in order to give representation to Mahomedans. As regards the question of municipalities, circumstances might be somewhat different. In the case of municipalities you will find that Mahomedans live in particular quarters in the city and Hindus live in particular quarters. By having, therefore, different wards it might be possible that in some parts the Mahomedans will be in a majority and will be able, therefore, to return their own members, although perhaps on the whole they might be in a minority. In the case of district local boards, however, in no single constituency you can have a Mahomedan majority. If, therefore, voting is to go on a communal basis, as it is confidently expected by practically everybody that it will go on in the beginning, for Mahomedans to be returned in mixed electorates, you will have to constitute electorates covering such wide areas as to include half the district, if not more. If there are 10 members in a district local board and you have to reserve one seat for Mahomedans, in order not to be unfair to the other communities, you will have to have a constituency consisting

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of the whole district. Do honourable members consider that members returned from such a large area will have the local knowledge necessary? I think that it is impossible to have constituencies spread over even four talukas if members are to possess a sufficient amount of local knowledge of their constituency. If the whole district is to be parcelled out into several constituencies, probably each constituency will be a taluka, and if each taluka is asked to elect two or three members—and I for one cannot see that a constituency can be spread over more than one taluka —it will not be possible in fairness to other communities to reserve a seat for Mahomedans in each constituency. If you do so, the proportion of Mahomedan members will be larger than their population warrants. In a case like this it will not be possible to reserve seats for Mahomedans in any constituency. It is on that account that I am led to consider that the only alternative is to have separate communal electorates. I do not feel that it is a satisfactory solution. I should have been glad if my Mahomedan friends had not insisted upon it and had trusted to the goodsense of their fellow voters and also to the public work that they might themselves have done in the field of local self-government. But we have got to deal with facts as they are, and I do not think that there is any alternative for this purpose. As I have said already, I do not regard this as a very happy solution, but it is because I do not find any other possible solution that I am compelled to oppose the amendment moved by my honourable friend.

Mr. M. W. PRADHAN (Thana District): Mr. President, I rise to oppose this amendment. Now, Sir, the vexed question of communal representation is one, about which we have heard a good deal at the first reading. Honourable member after honourable member has been honestly trying to achieve what India should be, but the question before this House is what India actually is. The presence in the country of two separate political organisations like the Congress and the Moslem League ought to convince every honest patriot that India is in reality divided and not united, and so long as there are these two political organisations ventilating their grievances separately, no person can honestly state that India is united. The Honourable Minister has given a proper perspective of the state of things in this country and has provided what ought to be provided to maintain peace and harmony among the two great communities of this land. Mr. President, I honestly believe that the bill as it has come from the Cabinet of the Council represents the opinion of the Mahomedan minority of one-fourth; if the Government, both reserved and transferred, is taken together, then also it represents this proportion of one-fourth, and the Council is also a little more than one-fourth Mahomedan. If anybody wants to maintain the unity of Hindus and Mahomedans, they could not do better than ask the non-Mahomedan majority of three-fourths to give the one-fourth minority what they are unanimous in asking, because not a single Mahomedan of this Council has got up and said "Very well, we do not want communal representation". Real unity will be only achieved by the three-fourths majority of non-Mahomedans saying "Very well, we will give you what you want, communal representation". Such a liberal attitude towards what are called the backward classes and Mahomedans will convince them that they need not be afraid of the majority, and that legislation like this alone would tend to achieve that unity which every patriot is looking forward to obtain in this country. With these remarks I most vehemently oppose this amendment.

Mr. B. V. JADHAV: Mr. President, I really congratulate this House on the change of opinion they have been showing this time. When this bill was being read for the first time, the opponents of communal representation numbered very strong and every one of them opposed it on principle and said that it would bring disunion and discord and would have a tendency ruinous to the formation of the Indian nation. I am very glad to find the change of front that has taken place and now all the members are united in thinking that some steps ought to be taken to ensure adequate representation to their Mahomedan brethren. Now, the question or the point at issue is how to achieve that end and how to give adequate representation to Mahomedans so that their just grievances will cease to exist hereafter, and the way suggested is that of giving them reserved seats in multiple constituencies. Much has been said about the impossibility or, at all events, the difficulty of dividing a district into electorates which will ensure reservation of seats, and I need not say anything on that point. I have to add, Sir, that reservation of seats is possible or successful only in cases where the community to be protected has got a majority of votes in the electorates and necessity is found to protect them. Then, the number of seats reserved is not in proportion to their voting strength nor to their proportion in the population. In that case one or two seats are reserved for them and opportunity is given them to capture more seats if they can. In the case of Mahomedans, they are not in a majority, except in the province of Sind, and in Sind they do not want any protection at all. But in the Presidency proper they are everywhere in a minority and if, as is proposed on their behalf, seats are reserved for them in mixed constituencies, the number of such seats will have to be fixed in proportion to their numbers. I cannot say whether it is difficult to reserve seats in mixed constituencies, but I take it for argument's sake that such a course is feasible. And in that case they will have to be given the opportunity of contesting as many seats in the election as possible. But in that case injustice will be done to other communities.

I must raise my voice against the claim that has been made in this House about the proportion of seats to be reserved or to be given to the Mahomedan community. It has been urged here on the strength of the Lucknow pact and on the principle recognised in the case of Councils by the Government of India Act that one-third seats ought to be reserved for Mahomedans. I have to protest strongly against this claim. It is but right that Mahomedans should have their due share and should not ask for anything more. Whatever the condition which the Mahomedan community is at present in, and whatever their historical importance in other parts of India may be, I must say that in this Presidency of Bombay the two communities—Hindus and Mahomedans—at least stand on a footing of equality and no claim can be made on account of their historical importance or any other consideration. So I do admit that the Mahomedans do deserve to have their claims protected by communal electorates, but at the same time I must say that this claim ought to be recognised on the basis of their population or voting strength and on no other consideration. The Lucknow pact or the principle accepted by the Government of India Act does not apply in this instance and therefore ought not to be encouraged by this Council at all.

India, as has been observed, is not united. It is on the contrary disunited. These elections serve to bring to the surface the real germs of the disease of disunion that have been lurking in the constitution of this country. Municipal and local board elections have been proving that the country is hopelessly divided and it is but right that the disunion of the different communities

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ought to be recognised and adequately laid at rest. It is not true that the introduction of communal representation will create disunion and will cause quarrels; and the charge that when Government support communal electorates they are actuated by mischievous motives and want to work on the principle of 'divide and rule' is utterly baseless, and I must raise my voice against this accusation. India is divided no doubt, but it is not due to any action of Government that India is so very hopelessly divided. The intention of all communities is to diminish that division and, therefore, it is but right that justice should be done to all backward communities. If we do that, we shall be laying the foundations of unity in India and no unity can be hoped by stifling the aspirations of minorities. I therefore ask my friends to give in with a good grace and show that they are very considerate towards the feelings of our Mahomedan brethren.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, while this bill was before us for discussion last time, I stated that I would vote for it if a way could not be found out in order to give my Mahomedan friends adequate representation by election in proportion to the population and strength by pooling up and forming multiple constituencies rather than have this communal representation. It appears that it is not generally known how these elections are contested and are at present made. Under the Act we have got taluka local boards which are conterminous with revenue talukas and district local boards, the election to which is in this manner that members of taluka local boards elect one representative to the district local board. That disappears under the present constitution. Now there is going to be a direct representation on the district local board. Now I will take a concrete instance to illustrate my point. Suppose, for instance, I take Broach district, in which the present voting strength is about 3,140 voters and these 3,140 voters would elect say a certain number, say about 31 for the purpose of our illustration, 31 members to the district local board on a broad basis, not on a filtered basis. Now owing to the voting strength of this particular district, I find that the strength of Mahomedan voters there is 1,366 as against 1,774. Now, I put it that this question might have been considered from that point of view in the select committee. Now, may I ask if my proposal is accepted of a multiple constituency with cumulative voting, whether the Mahomedans have not as good a chance of being elected as by any other method? The point, Sir, I wish to emphasize is that in a constituency containing more than one-third voters of one class and two-thirds of the other or such larger or smaller proportion there is a chance of being elected from the general constituency. There are so many members to be elected; for instance, 100 voters to elect 1 member. So, if you put the whole strength on that basis, then in that case you will find that there is a very good probability of a Mahomedan member being elected by the general constituency alone. For instance, let us take another instance, of Amod taluka. Now, there you find you have got about 1,980 voters. I am not taking the case of taluka local boards. The voting strength of Mahomedans in Amod taluka is 536, about one-third. Now, there also you find that if a multiple constituency is created and the right of cumulative voting is given, then the Mahomedans as a class can vote together for a particular member of their own liking and a mixed electorate and the general electorate can certainly bring in the necessary candidate. Now, the Honourable the Education Minister was, therefore, not right when he said.....

The Honourable Dr. R. P. PARANJPYE: I might point out, Sir, that the honourable member has taken a very exceptional case, of Broach What about the rest of the Presidency? I would like him to take the case of Belgaum, for instance.

Rao Bahadur G. K. CHITALE: Well, Sir, I thought we are legislating for the whole Presidency. If so, what ground have you to ask me not to take the instance of Broach? You have to take the case of some place. You say, take another case of Belgaum. What is the use of telling me to take a case which I do not know?

The Honourable Dr R. P. PARANJPYE: Take the case of Ahmednagar.

Rao Bahadur G. K. CHITALE: I am quite prepared to take the case of Ahmednagar. The honourable the Chief Secretary here and other members may know that in Ahmednagar we have created a constituency for Mahomedans in the way in which I have suggested, and for the last twelve years Mahomedans are being usually elected in the general electorate. The papers are before you and you might see that we have created a constituency having a number of Mahomedan voters, giving them two votes when there are members, and we have found during the last twelve years that my anticipations have fructified to the extent that they have always succeeded in electing a Mahomedan gentleman to the municipality.

An Honourable MEMBER: We are not dealing with municipalities now but with local boards.

Rao Bahadur G. K. CHITALE: But you want to introduce it in all local bodies? Well, my honourable friend the Education Minister says "What about the rest of the Presidency?" Now, may I point out, Sir, that even there the statistics show—I speak subject to correction—that in every district, excepting perhaps East and West Khandesh, where there is a majority of Mahomedans, the Mahomedan population would be somewhere between ¼th and ⅓th of the total strength? I do not want to accept merely knocks and shaking of the heads. If you put before me actual facts and figures to show that I am wrong, I will accept it. I think if you go into the facts and figures, you will find that a good arrangement could be made for electing a Mahomedan member. That is my conviction. But, as I say, I do not wish to have this quarrel if my Mahomedan friends mean to say or think that we are coming in their way. I have said what I could from the other point of view, but still I see that there appears to be a very strong feeling on the part of my Mahomedan friends that they want representation to be secured by election by their own men. They do not want election on the basis of a mixed electorate. That is partly natural, but, as one of my honourable friends here said, it is a bad thing to start with a distrust when altogether from all points of view it is very desirable that these elections should be on the right lines. As I say, I am not satisfied that our anticipations without conceding communal representation cannot be realised. If honourable members can give instances where the proposal which I have made has not succeeded or cannot succeed, then the other method can be tried on the actual basis of population and voting strength, and I would give opportunities to Government to look into that. When Government is satisfied by looking into the administrative aspect of it that my scheme is possible, I would wish this House to accept it. But, as I say, I do not wish that this quarrel should go on for any length of time. If my honourable Mahomedan friends object and think that we are doing an injustice to them and that they do want separate representation, I think all will vote for it. I must

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say, however, that it appears to me a rather bad spirit, as it shows distrust and distrust begets distrust. They have a right to have representation. I have already said they have separate interests, very powerful interests. But, apart from it, as I have suggested, it is necessary that that question should be looked at from the point of view I have suggested and it is only my regret that even in the select committee the matter does not appear to have been examined from that point of view at all. I must say that I regret that, because there appears to be a voting strength here in this House by which this separate representation proposal would be carried, no attempt is being made to see whether there is any other way of securing our object. With that, I think, I must leave it to the Council for decision.

(*After recess.*)

Rao Bahadur R. R. KALE (Satara District): Sir, the question of communal representation was debated at the last meeting of the Council and is being mooted now, and the arguments on either side are being advanced with great force. I am not in accord with the recommendation made by the select committee on this point, and I will show this House that the recommendation is entirely opposed to the established policy of Government. But, before doing so, I should like to draw the attention of honourable members of this Council to the clause under discussion, namely, clause 6.

The honourable member for Larkana said that there ought to be a certain proportion of Mahomedan members in Sind. My honourable friend the honourable member from Surat said that, if communal representation is given to Mahomedans, the number of such representatives ought to be fixed with reference to their population. Now, Sir, you will understand that we have a general clause by which the boards consist of members elected by general and Mahomedan constituencies, and the number and extent of such constituencies and the number of members elected by each constituency shall be as prescribed by orders made by Government under sub-clause (*a*) of clause 103; not even by rules, but by mere orders. The number of members to be elected by a Mahomedan constituency of a particular taluka or of a particular district is left to be determined at the sweet will of Government. There is absolutely nothing in the bill to fix it by reference to population or by any other proposal. The power of fixing the number of members is left merely to an executive order, not even to rules made by Government. I would therefore repeat, Sir, that this is a very large departure from the policy that has hitherto prevailed. The Local Boards Act has been in force for nearly 40 years and the need of a special constituency for Mahomedans was not felt. The Government, Sir, in the year 1908 in their letter No. 1768 dated 26th of March have expressed themselves against this principle. Later on, in the year 1912, in a Government Resolution of 10th October 1912, they have seen the impracticability of the arrangement to give separate representation to different communities; and in a resolution of 1916 they had distinctly observed that there need be no separate representation for Mahomedans in the rural areas. But here you are giving it in rural areas. They say the interest of the two communities is not in conflict, except in the matter of education. Then, Sir, in the year 1915 a committee was specially appointed by the Government and that committee examined a large number of witnesses, both officials and non-officials, and out of the witnesses thus examined, it will be seen that a very large number was opposed to communal representation. It will be seen that among the witnesses there were almost all Collectors and Assistant Collectors of the Presidency who

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stated in their evidence their opinion very clearly. Now these Collectors and Assistant Collectors who are familiar with the conditions prevailing in the districts have emphatically expressed their opinion against communal representation. I submit, Sir, that the unanimous opinion of such officers who, as I have said, are in constant touch with the people of the districts is entitled to great weight. Then, Sir, there is a very important document, a resolution of the Government of India issued in the month of May, 1918. That is a very comprehensive resolution, and it deals very fully with all questions relating to local self-government and with other matters. It has embodied a well-considered opinion after reviewing the whole situation and with regard to communal representation that resolution says :—

> "The Government of India would prefer that this communal representation should be effected by maintaining nomination rather than by introducing some system of communal representation."

So, Sir, you will see that the trend of opinion as prevailing from the year 1908 to the year 1918, extending over a decade, has been distinctly opposed to the adoption of this principle of communal representation. I shall deal with the Montagu-Chelmsford Report later on. But, after the reformed Government has come into existence, it is a matter of very great regret that this proposal regarding communal representation should have emanated from Government, especially when, so far as other Presidencies are concerned, where perhaps the question of Mahomedan representation was more acute than in this Presidency, we find, they have shown a distinct advance in the direction of liberalism. In the Bihar and Orissa Council a proposal to extend separate representation to municipal boards in the interests of the Mahomedan community was strongly resisted by illustrious members of that community, one of whom is the President of the Council at present, and the other is the Minister of Excise and Education in that Province. Again, Sir, in the Legislative Assembly when the question of electoral rules of the Legislative Councils for the next election was raised, Sir William Vincent opposed communal representation.

And last, but not least, recently, when the question of the extension of the percentage of the Mahomedan element was under the consideration of the Council in the United Provinces, the Honourable Pandit Jagat Narain, who was in charge of the Local Boards Amendment Bill, said that Government did not wish to interfere in the controversy, but would leave the question to be decided by the vote of the Council. Of course, other leading members such as.....

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : May I enquire how the non-Mahomedan Minister in charge of Local Self-government voted ? Did he vote in favour of, or against, it ?

Rao Bahadur R. R. KALE : My point is, there was a question as to increasing the percentage of the Mahomedan element.....

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : How did the Minister vote ?

Rao Bahadur R. R. KALE : He may or may not have voted for it. My point is that ultimately the decision was not to extend the percentage of Mahomedans. The Council ultimately voted not in favour of the extension which was sought by certain Mahomedan members of the Council, but against it. The Honourable Minister says that Pandit Jagat Narain, the Minister in charge in the United Provinces, voted in favour of the amendment, but I think I am right in saying that he voted against it.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : No.

Rao Bahadur R. R. KALE : Suffice it for my purposes to say that the amendment was not accepted.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : That is a wrong statement. May I correct the honourable member ? It was accepted.

The Honourable the PRESIDENT : I have pointed out very often that if it is not a point of order, but a mere explanation, contradiction, or interruption for any purposes other than a point of order, the honourable member who is interrupted is entitled to say " I do not like to be interrupted ". But the honourable member should not remain standing, and at the same time allow the interrupter to go on. Both are not in order.

Rao Bahadur R. R. KALE : When I did not sit, I thought the Honourable Minister would not speak.

The Honourable the PRESIDENT : Is the honourable member going to allow the interruption ?

Rao Bahadur R. R. KALE : No, no. I have not yet sat down. The question was raised to-day as to the practice in the municipalities, that is, whether there is any separate representation given to the Mahomedans in the municipalities in the Presidency proper. It is a very disappointing feature to observe that instead of proposals emanating from the municipalities or any district officers, we find that on August 20th 1921 Government sent down a memorandum to the Commissioners, in which they said that they wanted to simplify the franchise for municipalities, and secondly they said that it was also proposed that special constituencies should be created for Mahomedans. Now, after a year, we find that certain electoral rules are made, and a resolution is passed by the Government showing the amendments to the election rules drafted by the Remembrancer of Legal Affairs.

The Honourable the PRESIDENT : May I say that this is rather wide of the mark ? What Government are doing outside this bill has nothing to do with the question as to whether there shall be one general constituency, or a general constituency and a Mahomedan constituency.

Rao Bahadur R. R. KALE : The question is whether this special representation exists in municipal areas. Suffice it to say that it was only in September 1922 that these rules were framed, and there is, therefore, no separate representation of Mahomedans in the municipalities. Now, as I said, in the matter of local boards, Government want to create a special Mahomedan constituency and without this bill, on this question of Mahomedan constituencies, being sent to district local boards specially for an opinion on this question. My submission is that, looking to the attitude of Government in the past, it is quite clear that the Government was not in favour of communal representation, and how is it that now, for the first time, we find this element introduced in the district local boards ? It is stated that now that we have this communal representation in the Councils, we should introduce it in the local boards. In regard to this point, I think it is sufficient for me to say that the Montford Report allowed it to stand so far as Councils are concerned, because it already existed, and therefore it is no argument to say that because it is introduced in the Legislative Council, therefore it should, for the first time, be introduced in the Local Boards Act. On the contrary, that report contains an observation that the evils of any extension of this principle are plain. Therefore, that argument,

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namely that because it exists in the Legislative Council it should be extended to lower bodies, will have no weight.

Then, Sir, it was stated that the Lawrence Committee which was appointed by Government in the year 1915 has recommended it. I shall proceed to answer that argument by a reference to the report of this committee. Its recommendations on this question are contained in paragraph 14, page 4. The recommendations do not relate only to the Mahomedan constituency. The framework of the district board, as laid down by those recommendations, is like this. The report says :—

"The remainder of the persons elected should be elected by special constituencies, *e. g.*, Inamdars and Jahagirdars, persons holding educational qualifications, title-holders, honorary magistrates, and the Mahomedan community.

These recommendations may be illustrated by an example. Take a district with 8 talukas and 3 municipal franchises. Each taluka and each municipal franchise would elect one member—11 in all. Special constituencies might be represented as follows :—Inamdars, 2 persons holding degrees and diplomas of the University, barristers and pleaders 2, title-holders and honorary magistrates 2, recognized associations such as the Co-operative Credit Societies, District Sanitary Association, District Agricultural Association, 3 ; the Mahomedan community 2 ; total 11."

So you see that that committee has stated so many as 9 constituencies, and say that each constituency should elect so many. The framework of the present bill is a uniform franchise. In this you have done away with all these special constituencies as title-holders, education qualification-holders, and so on. The very fact that Government have now changed their policy makes it necessary that they should give a go-by to those recommendations.

There are other minor statements made, and I am not going to deal with those minor statements, because we have had sufficient answer to those statements. It was stated that separate electorates will give a good training to electorates ; I do not think there can be a better training ground for that than the general electorate. I shall give an illustration of what happened in my own district. While I was on my election tour, we were visiting several places. Many of the Mahomedan voters were absolutely ignorant of what was happening, and of their rights and privileges. What I mean to say is that separate electorate is a disadvantage and it practically shuts out a community. Then it was stated that Mahomedans are backward. I am used to this kind of argument. In this connection I am tempted to refer to the representation made by such a weighty body as the Bombay Presidency Association condemning communal representation. They stated in that representation that women then might come and say that they are backward and if women want to get into boards, why should they stand for election in the general electorate, and why should they not require a separate electorate ? This representation was signed, I am glad to say, by a Mahomedan gentleman also. My submission to my Mahomedan friends is that we are anxious that they should come up ; but what I am telling them is that if we once introduce this principle, it will be ruinous. I am not in the least convinced by the arguments advanced by the Honourable Minister for Education ; and I think he has out of sheer helplessness, consented to this provision which has been made in this bill.

Then, it has been stated by my honourable friend for Ahmednagar and my honourable friend for Surat that it is possible to create a separate constituency for Mahomedans by means of reserved seats. Arguments have been advanced both for and against that suggestion. After considering that suggestion fully

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I have come to the conclusion that it is possible to provide for Mahomedan representation by means of reserved seats. I see also that there is an amendment to that effect by Rao Saheb Harilal Desai, but unfortunately he is not in a position to attend the Council and move the amendment.

The Honourable the PRESIDENT: To the same effect notice of another amendment has been given. The honourable member is relevant in speaking on it, because I have stated already that all speeches relating to this subject must be made on this amendment.

Rao Bahadur R. R. KALE: Clause 6 is rather vauge. This question was summarily disposed of in the select committee. But, after all, we have to consider the whole Presidency. Supposing there is a district or a portion of a district in which the number of Mahomedans is so small that it is impossible for them to get seats, then there is a provision for nomination. You say you do not want nomination, but you claim a separate constituency. Nomination, I think, is enough to safeguard the rights of the Mahomedan minority in certain places. Therefore, generally speaking, it will be enough to have a provision like the one sought to be introduced by my honourable friend Rao Saheb Desai, namely:

"That the words 'and Mahomedans' should be deleted and after the word 'general', the following words should be inserted:' with reserved seat or seats for Mahomedans or Hindus where their population or number of voters is not less than one-fifth of the total population or number of voters'."

Where Mahomedans are not less than one-fifth of the population, that will, I think, serve the purpose. This will satisfy the Mahomedans and also solve the difficulty of my honourable friend about the number of Mahomedans that may have to be fixed by orders of Government. Suppose the Mahomedans form three per cent., then they can be nominated to the extent of three per cent. The Hindu community is a general community and among them there are so many castes that I feel that it is really difficult to differentiate between these castes of the Hindus and the Mahomedan community. There is the Maratha, the Lingayat and other communities. If a large share of the seats is taken away by one community, the Mahomedan, then it will be difficult to distribute seats among the other communities. Another honourable friend has asked that the proportion of seats between Hindus and Mahomedans should be two-thirds and one-third according to the Lucknow pact. So the Mahomedans are not satisfied even with the present bill.

The Honourable Minister, I know, has got the best intrerests of the country at heart: he is an Indian first and a Mahomedan afterwards. There may be different points of view, but at least I am certainly of opinion that the best interests of the Hindus, the Mahomedans and the citizens of this Presidency are likely to be served by means of a general electorate with nomination for minorities. I appeal to all the members of the Government—for in a matter of this kind both parts of the Government should co-operate— I appeal to them to reconsider the point and accept the amendment. With these words, Sir, I support the amendment of my honourable friend from Surat and also the other amendment, namely that of Rao Saheb Harilal Desai, as the best solution under the circumstances. I appeal to honourable members to maintain the good name of this Presidency. This Presidency has always given the lead and it will do so in this matter too.

The Honourable the PRESIDENT: I have again to interrupt the Rao Bahadur. He will pardon my saying that his argument is all repetition.

Rao Bahadur R. R. KALE : But I can only appeal, Sir.

The Honourable the PRESIDENT : Appeal, but please do not repeat it so often.

Mr. Trivedi and Rao Bahadur Ramanbhai had better speak now on this amendment. Mr. Gandhi has proposed to leave out the words "general and Mahomedan". Both Rao Bahadur Ramanbhai, acting for Rao Saheb Harilal Desai, and Mr. Trivedi propose to leave out those words and to insert something else. Therefore, if this amendment succeeds, then the question of insertion will come in, and I will call upon Mr. Trivedi and Rao Bahadur Ramanbhai to move their amendments. But if they speak on their amendment, they must make it quite clear to the Council that if by leaving out these words and by having a general constituency composed of Hindus and Mahomedans as proposed by Mr. Gandhi, any injustice is likely to be done, then there is a remedy out of it and that is to be found in Rao Saheb Harilal Desai's amendment, which is the same as Mr. Trivedi's.

Rao Saheb D. P. DESAI ( Kaira District ) : Sir, it appears to me that the principle of separate representation has come to stay in this country, for I find that in the Act of 1869 and in the Act of 1884 I could just see that there was no such provision nor such a pleading exhibited. Somehow or other this feeling of separation has crept in since then.....

The Honourable the PRESIDENT : We have had so much of this argument that I think there must be some limit to it. I have given every opportunity to all the members who have spoken up to now, but now I think there ought to be some fresh argument or else I will accept the closure. I know we are all suffering from disunion, but what is the use of whining about it ?

Rao Saheb D. P. DESAI : What I want particularly to say is this, that if this spirit of disunion continues, it may spread to the provinces and provincial cleavage.....

The Honourable the PRESIDENT : All previous speakers have said that. The honourable member is merely repeating the same thing.

Rao Saheb D. P. DESAI : May I not speak in favour of Rao Saheb Harilal's amendment.

Mr. NAOROJI M. DUMASIA : I move a closure, Sir.

The Honourable the PRESIDENT : I accept the closure.

Mr. C. M. GANDHI ( Surat City ) : Sir, I should first like to dispose of the argument of the Honourable Minister for Education. He seems to think that it would not be possible to arrange for a proper representation of Mahomedans in the Belgaum district because the population of Mahomedans is one-tenth and, therefore, on proportional representation they ought to have about two or three Mahomedans on the board and, as one member shall at least have to be allotted to each taluka, no arrangement is possible. I fail to understand how it does not occur to him that several talukas may be grouped. I may be told that the grouping of two or three talukas may mean a large area, but is that such an insurmountable difficulty ? As against that, consider the situation in the other talukas. In the talukas of Ahmedabad district you find Mahomedan voters varying from 33 to 323. Are we to give representation of one Mahomedan member to a constituency where there are only 33 voters and give four or five to Hindus where the electorate is of 712 souls ? Take another taluka. Are we to give one Mahomedan member to an electorate of 59 and give four or five

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to an electorate of 1,620 Hindus ? That is the same story repeated in Kaira and Surat districts, so that, if we really want to give a fair representation based on the number of voters and based on the number of population, then I think a more equitable arrangement could be made than the one that is calculated to give one Mahomedan member to each taluka.....

The Honourable Dr. R. P. PARANJPYE: I did not suggest that. I said that, if you have reserved seats, you must give a member to a taluka, which will not be fair.

Mr. C. M. GANDHI: I say it is not necessary to do so, for if we do that, then I say we shall be giving to a small number of voters the same privilege of returning one member as we give to a large number of voters. But I fail to understand how the Honourable Minister for Education could advance an argument like this when he advocated a joint representation of three or four municipalities on the education board, when he is not giving to municipalities, each municiaplity, separate representation. I say, therefore, there is no point in that argument and an equitable arrangement could be made if we are not obsessed with the idea that because of political importance or some other considerations separate representation should be given to Mahomedans.

We find that the experience of Sind is really supporting the view I have been putting forward. There was communal representation in Karachi. The experience of that municipality after a number of years has been that it is better to have a general electorate, but the honourable member for Belgaum said that, so far as that district is concerned, there was no possibility of making any fairer arrangement except by this method. I have already exposed the hollowness of that argument. The honourable member for Dharwar said that up till now no Mahomedan candidate has been returned for Dharwar district and it is not possible to do so unless an arrangement like this is arrived at. May I ask him, if the electorate is so small that the Mahomedans as a community do not deserve any special representation for their community, is it not right that they should come in through the general constituency ?

I, therefore, think that no case has been made out for insisting in this Presidency for a constituency without which we have done so very well up to now. This is all, Sir, that I have to say and I think that this Council will accept my amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, the opposition seems to be confined only to those honourable members who would lose the monopoly of the boards. No doubt, Sir, by the acceptance of this clause, we are encroaching upon their preserves and one or two seats for Mahomedans will be taken away from their monopoly. Hence, Sir, this opposition. (Honourable Members: No, no.) They have enjoyed the monopoly up to this time. Now all the backward communities have also awakened and want to assert their rights. A point was made that there is nothing in clause 6 to show in what proportion the Mussulmans will be given separate representation. I assure this Council that they will be given representation only in proportion to their population and nothing more nor less. Then, the honourable member from Satara referred to the United Provinces bill. Sir, similar legislation was taken up there recently in regard to local boards. There a non-Mahomedan Minister in charge of local self-government, in the original bill, for the reason that Mahomedans might not come in by election as they are in a minority,

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gave them much more than this bill proposes to the Mussalmans here. There, where the Mussulmans are less than 1 per cent., they are given 10 per cent.; where they are not less than 1 per cent. but less than 5 per cent. they are given 15 per cent.; where they are not less than 5 per cent. but less than 15 per cent. they are given 25 per cent. and where they are not less than 15 per cent. but less than 30 per cent., they are given the same proportion as the proportion of the Mussulman population to the population of the rural area. But the Mussalmans in that province were not satisfied with this and brought in an amendment that they should get, whatever their population may be, not less than 30 per cent., but they were given representation in the above proportion. What I have proposed here is representation in proportion to their population, not more nor less. So when the honourable member from Satara referred to the United Provinces bill, he did not make the position at all clear. Then, he quoted a certain resolution of the Bombay Government of 1910. But I must inform this Council that before my assumption of office the Government of Bombay changed their policy and gave communal representation to the Mahomedans in Sind and after that a special committee was appointed by the Bombay Government, known as the Pratt Committee, which thoroughly investigated the matter and recommended communal representation for the Mahomedans in municipalities and local boards, and I have given effect to that recommendation and nothing more. I never quoted nor relied on the Lawrence Committee, which also accepted the principle of separate representation for the Mahomedans.

Then, some of my honourable friends say, "After all, we are trying to give Mahomedans special representation, but they should be given that by reserved seats." I think that is proposed in Rao Saheb Harilal Desai's amendment, which says :

"With reserved seat or seats for Mahomedans or Hindus where their population or number of voters is not less than one-fifth of the total population or number of voters."

Now, I would ask this Council to analyse this amendment and judge for itself. In the Presidency proper, excepting the district of Broach, the Mahomedan population is less than one-fifth. That is, by adopting this amendment, the Mahomedans would be excluded from the boards except in Broach. But you will find that in Sind, where the Hindu population is about one-fourth, the Hindus will get one-fourth of the seats which were the monopoly of the Mahomedans before. There the Hindus are more advanced, although their population is smaller. That means, by accepting this amendment, the Mussalmans in Sind will lose, but my Hindu friends, who are in the minority there, will get seats to the extent of one-fourth. Such is the solicitude of my honourable friend for the Mahomedan community. Look at the amendment, how carefully and cleverly it is worded. Then, my honourable friend from Surat made much of the fact that the Mahomedans have got a fair representation in Gujarat. I have the figures about Gujarat, Sir. He relied on certain figures quoted by Rao Saheb Harilal Desai in his minute of dissent, and when I questioned the honourable member from Surat and asked how many Mahomedan members were elected on the district local board of Ahmedabad, he avoided the question because he knows that there is not a single Mahomedan elected on the Ahmedabad district local board, though the Mahomedan population there is one-eighth of the total population.

Mr. C. M. GANDHI (Surat City) : How many elected members are there ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : There are 18 members there.

Mr. C. M. GANDHI : And how many are elected on the taluka local boards ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I am coming to that. Now, coming to the taluka local boards, there are eight talukas. In five talukas only one Mahomedan is elected. In three not a single Mahomedan is elected, though the Mahomedan population there is one-eighth.

Again, Sir, much was made of the case of Broach. There the Mahomedan population is one-third of the total population and 15 members are to be elected to the district board. Out of these 15 according to the population and voting strength 5 Mahomedans ought to have been on the board. But the honourable members will find that instead of five we have only two elected Mahomedan members. These were the two districts of which much was made in this Council. Then my honourable friend from Surat said that in the Broach district there are five talukas and there are two elected Mahomedan members from each taluka on the taluka boards. Now, so far as the voting strength and population of the Mahomedans are concerned, they are entitled to one-third of the seats, not one-fifth. So I have proved to the honourable members of this House, by facts and figures, that though there are Mahomedans in large numbers in some districts they are not elected. If you take all the districts of the Presidency proper, you will find that in only 16 districts Mahomedans are elected. Again coming to the arguments of the honourable member from Satara who opposed communal representation very vehemently, I would ask him, what is the state of affairs in his district ? Out of the 19 members not a single Mahomedan is elected or nominated. Then it was suggested, Sir, that Mahomedans might be nominated on the local boards. We know that up to now there have been two-thirds elected members on the local boards and that number has been raised to three-fourths under the bill. Nomination is to be made only to the extent of one-fourth. We have provided a seat for the depressed classes. I have also told you already that we have to nominate experts and those experienced in the administration of local boards. Then there are the various minorities. We have in this Presidency Parsis, Indian Christians, Lingayats, Jains and so many other communities. Further the bill clearly provides that the least number to be elected by the boards is three-fourths. They might thus be allowed to elect even more than three-fourths. So it is impossible to give representation to Mahomedans by nomination.

Then it was said communal representation accentuates differences. Now we have had the experience of the working of these Councils and I would assure this Council that but for communal representation we would not have got this unity. There were Hindus and Mahomedans before communal representation was given to the Mahomedans, but they were not united. Then my honourable friend the mover of the amendment says, suppose we give them communal representation, what would be their position ? They can get hardly one or two seats. I quite realise they won't get more than that. Yet my honourable friend wants to deprive them even of those one or two seats. They will be in a minority, because their community is in a minority, and the majority must always rule. If we push that argument to its logical conclusion, the Mahomedans who are in a minority in the councils, ought not to accept seats at all. My honourable friend the mover will not forget that sometimes even a minority can persuade a majority and bring it to some reasonable compromise.

Then, Sir, another point that was raised by the honourable mover was that if we go on giving the Mahomedans communal representation, there are

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other minorities and there would be no end to this process. I have said at the first reading of this bill—if the honourable mover will read the proceedings carefully he will find it—that there are no other minorities in this Presidency of any importance or in sufficient numbers throughout all the parts of the Presidency who can be entitled to communal representation. Take the Parsi community. They are in considerable numbers in only the larger cities. In the rural areas, you do not find them in sufficient numbers. So also Indian Christians. I challenge the honourable mover of the amendment to give me an instance of any other community which, like the Mahomedan community, could be found in sufficient numbers throughout all the different parts of the Presidency.

Mr. C. M. GANDHI : There are the Dharalas.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : You do not find them in several parts of the Presidency, and in Sind also you do not find them in sufficient numbers. Then, Sir, we were told that Mahomedans could be returned if we have multiple seated constituencies with a cumulative right of voting. Well, Sir, that has been tried in the municipalities, but has not proved satisfactory.

As regards reserved seats the Honourable Minister in charge of Education has said that it is impossible in the rural areas, where the Mahomedan population is scattered, to have reserved seats. Moreover, there is another objection to reserved seats, and that is this. In the Presidency proper Mahomedans are not only scattered all over the districts, but in comparison to non-Mahomedan voters they are in a minority. In view of this, what will be the result if they are returned by mixed electorates? Only those who have a majority of the votes will return members. Now those who have a majority of the votes will return members, who see eye to eye with them and share their views and not those of the Mahomedans. The Mahomedans would prefer to go without representation rather than be returned by mixed electorates. The representative of the Mahomedans should represent the Mahomedan point of view.

Again, it was said that there were no special interests of the Mahomedans to be representated on the boards. But this is not the case. Education among the Mahomedans has been almost neglected. We have the question of Urdu in the Presidency proper. Then there is the question of female education, which is very necessary, and I can multiply instances of special interests like the question of the use of dharamsalas, burial grounds and the like where the local bodies have been ignoring the interests of Mahomedans. There have been interpellations in the Council about these and this proves that the Mahomedans need special representation.

Moreover, some of the honourable members belonging to the advanced communities who have been very solicitous about the Mahomedans, say that their interests are quite safe in their hands. I submit there are representatives of several backward communities who protest that their interests are not safe in the hands of the advanced communities. Those backward communities though of the same religion as the advanced classes, are not allowed to worship in the same temples, nor to draw water from the wells belonging to the local bodies and built from public funds. Boys of the backward classes are segregated in schools. So I would submit that when the interests of their own backward communities are not safe in the hands of the advanced classes, the Mahomedans with different religion, traditions and interests can scarcely

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leave their own interests in the hands of these advanced communities. With these remarks, I trust that this Council will throw out the amendment.

The Honourable the PRESIDENT: The original question was "that clause 6 do stand part of the bill" to which an amendment has since been proposed, namely that the words "general and Mahomedan" in line 1 of the clause be left out. Therefore, the question now put is that the words "general and Mahomedan" do stand part of the clause.

Motion carried. Amendment lost.

The Honourable the PRESIDENT: The next portion of Mr. Gandhi's amendment, about the insertion of new words, falls to the ground, and the amendments of Rao Bahadur Ramanbhai, Rao Saheb Harilal Desai, and Rao Bahadur Kale also go out. Now, Sardar Mutalik, will have the privilege of addressing the House. Mr. Bhate's amendment for cumulative voting will come afterwards, because Sardar Mutalik wants to tack on another special constituency. Does the honourable member want the right of cumulative voting to be given to all the constituencies?

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): The right of cumulative voting is to be given to only general constituencies.

The Honourable the PRESIDENT: Then Mr. Bhate's amendment also falls to the ground.

Sardar V. N. MUTALIK: Mr. President, my task has been considerably lightened and I shall restrict myself to my amendment, which is:

"In clause 6 lines 1 and 2, after the words 'general and Mahomedan' and before the word 'constituencies' add the words 'and landlords'."

In the first place, I want.....

The Honourable the PRESIDENT: Is the word 'landlord' anywhere defined, either in this bill or in any other Act?

Sardar V. N. MUTALIK: I have given notice of an amendment, which will be consequential on this. That is an amendment to clause 15, that sub-clause (*d*) be added after sub-clauses (1) and (2) of the clause, which gives the definition of the word 'landlord'.

Sir, I will first ask the indulgence of this House to dispel from their minds any prejudice that may be lurking in their minds when the word 'landlord' is uttered. The word need not carry any prejudice with it. The landlords about whom I am now pleading, stand in the shoes of Government, and they have no power, either by custom or by law, to harass their tenants. I submit, Sir, that the landlord class has absolutely no power, either by law or by custom, to harass the tenants in their villages. In fact, their interests are identical with the interests of the community at large, and they have for so long served very gloriously on the boards.

Coming to the amendment itself, I would point out that the constituency of landlords was created when the Act of 1884 dealing with local boards was passed, that is, from the very beginning when the local boards came into existence. Before the Act of 1884 came into force, there were only local committees, and on those committees most of the representatives were the landlords, no doubt nominated by Government. But all along, this class has done very, very glorious service on the boards. It will be found that even at present about half a dozen representatives of the inamdars and sardars are

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presidents of the boards. I would like to draw the attention of the Council in this respect, to the memorial that was submitted by the honourable representative of the Gujarat Sardars and Inamdars, on behalf of the inamdars of Surat and Broach. In paragraph 8 of that memorial it is stated :

"Mr. Peile definitely stated that 'the land-holders should have a proper influence.' The principle was that the franchise should be given to those who have a permanent interest in the local funds. The object was to make the local bodies thoroughly representative. The double franchise was specially given then *after a full deliberation.*"

Several committees of enquiry and several witnesses were examined and none of them gave an opinion that this constituency should be abolished. The latest committee that reported on the question was presided over by my honourable friend the present Finance Member, and he not only stated that there should be seats, but he recommended that these seats should be increased, and instead of one seat provided for in the present Act two seats should be given. I am perfectly sure that the Honourable the Finance Member did not recommend that without any consideration, or without any enquiry. On the committee it will be seen that the late Rao Bahadur Sathe also served. There was not a single member on that committee who gave the opinion that this constituency must be abolished. The illustrious authors of the Montford Report say that

"No men are better qualified to advise, with understanding and great natural shrewdness on the great mass of rural questions that will come before provincial legislatures".

Sir, when this class is particularly fitted to express their opinions on the provincial councils, they must be much more so with regard to questions that will arise in local boards. The same opinion was held by the Franchise Committee and by the Parliamentary Committee also. I do not think the Honourable Minister has ever taken the trouble to enquire of a single witness or has referred the question to a single committee, and perhaps this idea is the result of a flash of theory absolutely without an enquiry. The Honourable Minister is absolutely ignorant of the conditions of the Presidency proper, and perhaps he does not know what our interests and tenures in the Presidency are. All along he was arguing that the interests of this class are limited. I may refer him to the report of Government on land revenue administration. In this report figures are given. Over 2,000 villages are held by this class. When I referred to this last time, he said that the voting strength of this class is very poor. To him I wish again to show the voting strength of this constituency, which is as much as in any general constituency, for one seat.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : May I know the figures ?

Sardar V. N. MUTALIK : In my taluka, Satara, the number of voters is 37, and for the whole district it is 392. According to the new definition of 'landlords' this number will very largely be increased. Sir, this Council has already accepted the principle that special representation is required for special interests on local boards. That this is special interest has been recognised by Government for a very long time.

I can come to another point, the liability of inamdars to pay local fund cess. According to the sanads issued to inamdars by the Secretary of State, there is absolutely no liability on inamdars to pay any additional tax on their lands. This is a new cess and inamdars are not in any way liable. They paid the cess because they were given special rights on boards and because they wished to serve the boards. If, now, the boards do not want us, we shall stand

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on our rights and may not consent to pay. The question, Sir, will likely go to civil courts, and I do not want to dilate on it at this stage.

The Honourable Minister has only ignored our claim, no doubt deliberately, and is inconsistent, illogical and, if I may say so, has been selfish with regard to his own community. (Honourable Members : Order, order). There is nothing to call to order.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : There are persons of my community who are inamdars.

Sardar V. N. MUTALIK : In this class are included all communities from Brahmins to depressed classes. So, on that score also I am advocating the cause of my own class, but certainly not of my own community. I have shown that the interest is sufficiently strong to be separately recognised by this Council. Now, let me appeal to the honourable members, specially Mahomedans, and particularly to the Leader of the House and to the Honourable the Minister in charge : when you accept the principle that special interests should be recognised, then let there be no charge that you are only serving your own community, or showing partiality to your own community.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Mr. President,.....

The Honourable the PRESIDENT : Order, order. The Honourable Minister will have his chance.

Sardar V. N. MUTALIK : Sir, I don't want this interruption. I will only make one more remark, and that is that when the question of this constituency was particularly before this House no representative of this interest was taken on the select committee.

The Honourable the PRESIDENT : Order, order. This House appointed the select committee and I cannot allow any comments upon that decision.

Sardar V. N. MUTALIK : It does not appear well for an honourable responsible Minister to use disparaging or insulting language about an important class. He used the word ' aristocrats ' for this class, which conveys a derisive sense.

The Honourable the PRESIDENT : What is it ? I have not caught it.

Sardar V. N. MUTALIK : The Honourable Minister used the word ' aristocrats ' in connection with this class. I only wish he uses polite and dignified language.

Sir, I recommend this amendment to the Council and appeal to their sense of justice and consistency, and I hope that the Council will carry it.

Mr. G. B. TRIVEDI (Thana District) : Sir, I oppose this amendment on this ground : whatever the past history and whatever the past policy of the Government, we are now going to have a new policy ; we have now adopted a new policy. Up to now elections to the local boards were based on other qualifications : now we are democratising their constitution and we are broadening the franchise, and at a time when we are broadening the franchise, where is the place for a special constituency of this class ? I admit that the landlords have played a great part in the public life both of districts and of the Presidency. I admit that they have done good service in the past. But what will prevent them from doing the same service now ? Can they not stand for the elections ?

[Mr. G. B. Trivedi]

Is there any bar to their standing for election to the local boards ? Are they debarred ? They are not. They will be the leaders of the people in the future as they have been in the past. By their intelligence, by their influence, by their power and by their wealth they can still lead the public opinion. If I belonged to that class, I would rather try to lead the people than claim any special privilege. I think, with this new franchise, it is a proud privilege now for a landlord of this class to go and work amongst the people as a leader of the people, and not to claim that as a special privilege. What I say is that when we are democratising the local bodies, in democracy there can be no place for special representation for classes. The Mahomedans ask for special representation on another ground, but they have not said " Elect us on a different basis ". They have not asked that their franchise should not be democratic, whereas what you ask is a franchise based on other ground than that of democracy. I am willing to give my quota of praise to the work that the landlords have done up to now, the work that they are doing and the work that they will do henceforth. What I say is that they are not debarred even now under the bill and they will have even a better chance of being the leaders of the people. With these remarks I oppose the amendment.

The THAKOR of AMOD (Gujarat Sardars and Inamdars): Mr. President, I support the amendment brought forward by my honourable friend Sardar Mutalik. The fact is this that the inamdars were given the special privilege in Act No. I of 1884 to elect one member from among themselves to a taluka local board and to the district local board, which has been removed by this bill No. XVI. The cause of deprivation is argued that the number of inamdars is very small and so it is not justified that they should enjoy the said right any longer. I do not think the argument is very sound. The number of inami villages is about 267 in Northern Division, 1,046 in the Central Division, and about 723 in the Southern Division. So far as the Deccan is concerned, I am of opinion that the number is fairly good. Of course, the number in the Northern Division is perhaps not sufficient. However, I am inclined to say that it may perhaps be not possible to elect one member to each taluka and one to each district local board, but I see no reason why it is not possible to send one to each district local board. I may agree that the number for the taluka is small because there may be a taluka where there may be only one inamdar and truly speaking in that case it is not justified. But that defect could be removed and I propose that the talukdars may be included in this constituency and I support Sardar Mutalik on the understanding that he accepts my proposal. Now, Sir, this proposal is accepted and so the matter is very simple. It is not merely on sentimental grounds that they desire to support their claim for the special constituency, but the fact is this that they contribute a very large amount towards the local funds of the Presidency and that they have got a substantial stake in the proper administration and the expenditure of the local funds. Sir, I can prove this by quoting a few figures that the interest of this class was neglected in the years past and if they have got no voice in local administration, I am afraid their interest is bound to be affected. In the district of Broach there is a taluka called Jambusar where there are two inami villages. One is Kavli, where the annual local fund cess paid is about Rs. 612. From the date the Local Boards Act came into force, in 48 years about Rs. 36,000 have been collected and a sum of Rs. 816 is only spent in the interest of the tax payers. Similarly only Rs. 1,100 is spent in village Wad where the cess amounting to Rs. 17,000 is paid. Now, Sir, I put it to

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the House and want to know whether the interest of this class and the taxpayers is neglected or not. I do not want to take much time of this House by giving other instances as I have given them already when the bill was first introduced.

Talukdars had no such privilege and I think they never bother their head for this, nor the Government officers thought it expedient to push this class to take active part in the local administration till the Registrar of the Co-operative Societies, Mr. Rothfeld, when he was the Collector at Broach, persuaded the Thakor Saheb of Kerwada and me. Now, I ask the question whether the work has been satisfactorily carried out or not by them. As a matter of fact, there are two kinds of taxpayers generally, one the holders of the rayatwari Government land and the other the holders of alienated land or holders of land which is neither alienated nor unalienated, I mean talukdari. Well, who is going to represent the interest of this class, either call them talukdar, inamdar, mazmudar or wazifdar. If you refer to the bill, it is found that the interest of this class is involved in almost all clauses. Suppose a road is to be made connecting talukas or the villages and when the question of acquiring the land is coming before the board and the alignment is to be approved or similar questions arise in which the interest of the class is involved, I submit, Sir, there must be somebody on the board who can safeguard the interest of the class.

The argument advanced that the number is small can no longer stand, because it could be remedied by including the class of talukdars. Besides I think that the interest can be judged by quality, not by number of voters. Another point is raised by my honourable friend Mr. Trivedi—in these democratic days how is it possible to allow this sort of thing? Sir, I cannot understand what he means by that. If he means that this class should come forward and work in co-operation with the public feeling, certainly I am prepared to accept it, provided it is based on a sound principle. But if he means that one community should slaughter the interest of another community, then I should say it is not democratic, but it is Bolshevism.

Mr. O. ROTHFELD: I have, Sir, the very greatest sympathy with the ideas underlying the honourable Sardar's amendment. But in spite, Sir, of all the sympathy I have with the ideas expressed by the honourable member who preceded me, I own regretfully that I must advise the House to reject the amendment as it stands. I do not wish to waste the time of the Council in pointing out that there are certain technical difficulties in the amendment as it stands which might create a few legislative difficulties. I do not want to take that point, because I do not think that the House is likely to consider the amendment very seriously. I do, however, want to say a few words on the principle of the amendment and the rather serious questions which it raises. Whatever sympathy I may have with the ideas underlying the honourable member's proposal, I cannot support the amendment. He really divides his argument into two heads. He says that the landlord class—the aristocracy of the country—deserves representation on local boards. He proposes, secondly, that the representation should be secured by defining certain constituencies. In the first instance, I would observe that the class to which he extends his amendment, as the honourable Thakor of Amod has rightly pointed out, does not include, as it ought to, according to his own ideas, all the aristocracy of the country and I should certainly, without any disparagement at all to the inamdars of the country, who are holders of entire alienated villages in several

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cases, without any disparagement to them, I should certainly be prepared strongly to urge as against them preferential treatment to the talukdars of Gujarat, who have hereditarily built an aristocracy, or nobility in the sense in which those words are used in Europe, that is to say, they won their estates by the sword, they kept them by the sword, they lived among their people and they ruled their own people. But leaving that aside and assuming for a minute that we are dealing with that deserving and aristocratic class as well, then I certainly would be entirely prepared to agree that that class deserves to have representation, that it ought to have representation, in the administration of the local boards. I can think of pictures in my memory when I travelled through the countryside village after village, when in the centre of a village or on the outskirts of a village, situated near his people, I have seen the house of a landowner in his own park, villages in which the landlord effected every improvement for his cultivators and saw to their needs and requirements, where he drained their land, fenced their fields and procured their seed, villages in which he took personal interest, in which he acted as their magistrate, in which when any one was ill his wife took medicines to them and fed them and preserved them from starvation in years of scarcity and where in short the landlord gave every assistance to them. I have pictures of that kind in my mind and I maintain that landlords of that class deserve special representation, and, what is more, they invariably get it. But these pictures, Sir, refer to England, and I say, that when the aristocracy or the inamdars of this country are prepared to improve life in their villages and when they are prepared to do what the nobility of England and other European countries do for their villagers, then they will not need separate representation. I would challenge the mover of the amendment to show me those villages in this country where the landlord does all that. Till then, he must get representation on his own merits. There may be some, I hope there are some, but in my tours through country villages in the part of this country for which the honourable mover stands, I have not seen such instances and I maintain that if you give special representation to the inamdars or the landlords by giving them a separate constituency on a district local board without their performing their duty and without their having won the affections of even their own tenants—let alone the affections of the rest of the countryside—you are going to commit an injury to the ryots and hurt the very class you seek to foster by taking away the one inducement they have to increase their public spirit and their public position. I have only to add, Sir, that these remarks do not apply to the talukdars of Gujarat for whom the last speaker spoke. I am prepared to corroborate every word which he said in regard to the Broach district. But I am sure I can say—and he will say with me—or he if is too modest to say it himself, I say it for him—that even if there is no special representation for talukdars in Gujarat, he himself will be elected every time. I think that the honourable mover of the amendment having made his protest against changing times, will be well advised now to withdraw his amendment.

Mr. KANJI DWARKADAS: I move the closure.

The Honourable the PRESIDENT: I accept the closure.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Mr. President, in the debate on my amendment two points were raised, one by the honourable member from Thana and another by the honourable Registrar for the Co-operative Credit Societies. The main point raised by the honourable member from Thana was that the boards are now democratized. May I ask him in all

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seriousness whether he can say now in this Council under the Reform Act that this Council is not democratized and does not represent the country ? And if this Council is democratized and is representing the country, and on this Council a seat has been provided for the sardars and inamdars, what reason has he got not to provide a seat for the inamdars and sardars on the local boards ? In fact, the idea of the present local board constitution is to make the board a council in miniature. If there is separate representation for them on the Council, why not have separate representation for these classes on the local boards ?

Another point in connection with this matter was that the inamdars own whole villages and their tenants will help them just as they wish. May I point out that an inamdar may own at the most one village, not a whole taluka or a district, and his tenants will be of no use? Another argument was brought forward and maintained by the honourable member for the co-operative credit societies, and I thank him very much for the beautiful picture he has drawn with all the literary power at his command, regarding the landlords of England and other European countries, and I should certainly like that the picture should be followed by inamdars and sardars and landlords here. But may I ask him what power is there in the hands of the inamdars to do good to their tenantry ? Does not the responsibility lie really on the Government in depriving the inamdars of every possible power of doing any good to the tenantry ? Take the case of tagavi. Why should not Government extend the same rules in regard to tagavi to tenants of the inamdars as to those elsewhere ? I perfectly assure this Council that every inamdar would be willing to do all the good he can to his tenants, if he had the power. Who is responsible for the present state of things ? What right have we got under the Co-operative Societies Act ? What right have we got under the Village Panchayats Act ? In fact, what right or power have we got of doing good to the tenants ?

The Honourable the PRESIDENT : Order, order. Now the honourable member is driving his arguments beyond the scope of the Local Boards Bill.

Sardar V. N. MUTALIK : I was replying, Sir, to the honourable member, the Registrar of Co-operative Credit Societies. I only say this much that I thank the honourable member for the picture he has drawn. It may have been overdrawn, but all the same, I think that that picture should be followed by the inamdars and landlords here as far as possible. The inamdars are ready and prepared to do all the good they can to the tenants, but they have not been supplied with these powers. It goes without any dissentient voice that this is a special interest in the rural areas. If Government has once recognised for years together in various matters that the inamdars and sardars are a special class which deserves special representation on the Council and elsewhere, what is there to prevent them from recognising that fact in the case of local boards ? I have nothing more to add, Sir, and I only appeal to the good sense of this House and ask them to pass the amendment I have proposed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I must at the outset remark that abuse is no argument and indulgence in personalities is neither good sense nor good taste. The honourable member accused me of partiality towards my own community. But he must know that in Sind there are Mahomedan holders of alienated villages

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whose revenue amounts to lakhs of rupees, and as to my alleged partiality towards the Mahomedan community let me tell my honourable friend that those Mahomedan inamdars will also be excluded under the bill. We cannot have better testimony than that of this House on this question where the amendment has not been supported by any honourable member except the honourable member from Broach, who has also supported him half-heartedly.

Then he complained that in using the word 'aristocracy' I did not understand English. I put it to this House whether I do not understand English or he. Now in regard to the inamdars he has quoted certain figures. There are some talukas where there are hardly two or three inamdars, some talukas where there is only one inamdar, and as regards districts you will hardly find more than five, six or seven inamdars in each district. I can give the honourable members of this House all the figures that I am in possession of. I do not think it is safe to give the right of returning a member to two or three persons only. In the district local boards there are no special interests of the inamdars. If inamdars—once again with my honourable friend's permission I will call them the aristocracy—simply make up their mind to climb down a bit, I am sure they will be returned in numbers. Besides, honourable members will see that all the cess that these inamdars pay is recovered from the poor tenants.

Sardar V. N. MUTALIK: Not necessarily.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Where you let out the land to a tenant, the tenant pays you the cess. You here stand up in this House and ask that the man who pays the cess should have no right of electing you, and you want that without his right of electing you, you should be represented on the board. I hope this House will oppose this amendment.

Amendment negatived.

The Honourable the PRESIDENT: I yesterday informed the Council that Mr. Pahalajani's amendment was I thought in order, so far as it tacked on an exception to the general rule, the exception being Sind in respect of the existing conditions of local self-government there, differentiating it from the rest of the Presidency. Since yesterday, however, I have discovered a fatal flaw in the wording of the amendment. Does the honourable member for Sukkur mean one general constituency composed of Hindus and a general electorate or two separate constituencies, one a constituency of Hindus and the other a general constituency?

Mr. B. G. PAHALAJANI: Hindus and the general constituency separately.

The Honourable the PRESIDENT: That is not the wording of the amendment. You will see that the Council has already voted for the words "general and Mahomedan constituencies"—it is in the plural—that shows the separation. But you say "shall be elected by a Hindu and general constituency". The indefinite article "a" applies to both Hindus and a general constituency and makes them one constituency, not two.

Mr. B. G. PAHALAJANI: The wording is correct. "*a*" does not apply to Hindus and general.

The Honourable the PRESIDENT: It ought to be grammatically "By Hindu and general constituencies", if you mean two separate electorates.

[The President]

If I allow the change to bring out the real intention of the honourable member, it will be altering the substance of the whole amendment and making it a different amendment.

Mr. B. G. PAHALAJANI : I am showing the distinction. I admit that the interpretation of the Chair is right and further request that " constituency " may be changed into " constituencies ".

The Honourable the PRESIDENT : Then this ruling of Mr. Speaker in the House of Commons comes in the way, namely :

" It is open to every honourable member to vary his motion, but it must not go beyond the notice of motion which was originally given. The reason for this ruling is, honourable members seeing a notice of motion on the paper to which they possibly might have no objection might make arrangements for not being present or might avoid preparing themselves to speak upon it, but if at the last moment some entirely new motion appears on the Paper, they might find themselves taken by surprise. (Parl. Debates : House of Commons : Official Proceedings, IV Series (1907), Vol. 171 : Col. 681)."

On this ground, following the ruling of the Speaker, I rule this amendment out of order.

Clause ordered to stand part of the bill.

Clause 7 (*Constitution of local boards in exceptional cases*) ordered to stand part of the bill.

Clause 8 (*Qualifications necessary for selection to local boards*) ordered to stand part of the bill.

Clause 9 (*General disqualifications of members*)—

(1) No person may be a member of a local board who

(*a*) is less than 21 years of age,

or

(*b*) is a Judge of a civil court, or

(*c*) (*i*) having been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, or

(*ii*) being a person against whom an order has been passed under section 118 of the Code of Criminal Procedure, 1898, in proceedings instituted under section 110 of that Code, such order not having been subsequently reversed or quashed, or

(*iii*) having been dismissed from Government service, such dismissal having been notified in the *Bombay Government Gazette*, or

(*iv*) being a pleader whose sanad has been permanently withdrawn by the High Court, or

(*v*) having been removed from office under section 31,

and five years not having elapsed from the date of the expiry of such sentence, order, dismissal, withdrawal or removal, has not by an order of the Government notified in the *Bombay Government Gazette*, been relieved from the disqualification arising on account of such sentence, order, dismissal, withdrawal or removal, or

(*d*) is a stipendiary officer or servant of a local board, or

(*e*) has directly or indirectly by himself or his partner, any share or interest in any work done by order of a local board, or in any contract or employment with, or under, or by, or on behalf, of a local board.

(2) No person shall be disqualified under clause (*e*) of sub-section (1) for membership of a local board by reason only of such person—

(*a*) having a share in any joint stock company or a share or interest in any society registered or deemed to be registered under the Co-operative Societies Act, 1912, which shall contract with or be employed by or on behalf of the local board ; or

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local board may be inserted ; or

(*c*) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the local board ; or

(*d*) being professionally engaged on behalf of the local board as a legal practitioner.

(3) If any person is elected or appointed to a local board and is subject to any of the disqualifications specified in this section, his seat shall be deemed to be vacant and the vacancy shall be filled up, as soon as conveniently may be, by the election or appointment, as the case may be.

of a person thereto, who shall hold office so long only as the person in whose place he is elected or appointed would have held it if he had been eligible to be a member of the board.

(4) If any question, dispute or doubt arises whether a vacancy has occurred under this section, the orders of the Commissioner shall be final for the purpose of deciding such question, dispute or doubt.

The Honourable the PRESIDENT: As to clause 9, there are certain amendments by Mr. Trivedi.

Rao Bahadur R. R. KALE: But they were received late.

The Honourable the PRESIDENT: It is true, but if there is any notice of an amendment given although at the last moment, and if I consider it to be of some importance, I will place it before the House subject, however, to assent by the Honourable Member in charge of the bill. It is his bill: so his consent would be necessary as also my sanction.

Mr. Trivedi wishes to move that in sub-clause (*c*) (*i*), after the word 'sentenced' insert the words 'for offences involving moral turpitude'. Before I ask the Member in charge whether he allows it or not, I want to ask a question. Is the word 'moral turpitude' as regards an offence defined anywhere in any law? The question relating to moral turpitude has been discussed since the time of Socrates. The legislature should steer clear of it and leave it to moral philosophers and society to settle it between themselves. When it comes to a question of inserting the words in an enactment, then on a point of order the Chair has to see that the words have a precise meaning and are not vague on the ground that the meaning is a matter of opinion. The practice in the House of Commons is not to put matters of opinion into an Act of Parliament and that on the ground that they are too vague for the purposes of law. (See Parliamentary Debates: House of Commons Official Proceedings, 5th Series, Vol. 132.) It is a sound rule, one based on both legislative and common sense. I cannot accept this amendment; it is too vague. The other amendments of Mr. Trivedi to this clause also go out.

Rao Saheb D. P. DESAI (Kaira District): Mr. President, the amendment that stands in my name is as follows:—

"Leave out paragraph (*ii*) in sub-caluse (1) of clause 9."

Paragraph (*ii*) of sub-clause (1) of clause 9 reads as under:—

"being a person against whom an order has been passed under section 118 of the Code of Criminal Procedure, 1898, in proceedings instituted under section 110 of that Code, such order not having been subsequently reversed or quashed, or"

If this clause is retained, it would be an instrument in the hands of the Collector to proceed against a person whom he does not desire to be on the district local board. Such instances are not rare; I know of cases in which the Collector had proceedings taken out against some persons, in order to bring about results which he himself had in his view. He may proceed against a person out of spite. The point is that he can proceed against any person, get him convicted and make it quite impossible for him to be a member of the local board. It should also be borne in mind that the evidence of only two persons is required for bringing about this result. One officer and one witness are quite enough to spoil the reputation of even the best of men, and so it will be possible to prevent even the best of persons from going to the local boards. It was not found necessary to have such a provision in the original Act of 1884, and I fail to understand why the Council should allow such a provision to be inserted in this bill. The reformed Council should make it a point to see that no person, unless convicted by a regular judicial court, should be prevented

[Rao Saheb D. P. Desai]

from being a member of a local board. I, therefore, say, Sir, that whenever certain proceedings are taken against a person by the Collector for obvious political reasons, or for other reasons best known to himself, and a person happens to be convicted, such a provision in this bill should not come in the way of that person being a member of a local board. Perhaps, the Honourable Minister will ask whether it is my intention that thieves and robbers should get into the local boards. I say, no. But if it leads to an honest gentleman being prevented in this way from being on a local board, I should rather think that I would not object to a thief getting in than an honest person being purposely prevented and if gentlemen are to be prevented, conviction under Penal Code should be the condition. But these proceedings and conviction under the Criminal Procedure Code should not be allowed by this Council to come in the way of a person becoming a member of the district local board. Of course as I have had that experience.....

An Honourable MEMBER: You yourself?

Rao Saheb D. P. DESAI: Not personally myself.

The Honourable the PRESIDENT: I do not think that that sort of interruption is proper.

Rao Saheb D. P. DESAI: I must admit that though not personally, indirectly I had to suffer from the operation of this provision, and that is the reason why I say that it is no use this reformed Council giving into the hands of the Collector.....

The Honourable the PRESIDENT: Does that mean as regards breaches of the peace?

Rao Saheb D. P. DESAI: Yes, Sir; breaches of the peace, and even if two persons come forward and say that a particular man harbours criminals, then that is enough for the Collector to pass an order for security and that man is hauled up.

The Honourable the PRESIDENT: The use of the word 'Collector' in this connection is not correct. It should be the District Magistrate. The Collector is a different entity altogether in the eye of law.

Rao Saheb D. P. DESAI: The Collector and the District Magistrate are one and the same person.

The Honourable the PRESIDENT: They are not in the eye of law. They are two different legal capacities—one executive, the other judicial.

Rao Saheb D. P. DESAI: The Honourable Minister will say, why should not such persons appeal to the High Court and get their character cleared? In reply I can say that the High Court has got so many irons in the fire.

The Honourable the PRESIDENT: No direct or indirect imputation should be made against courts of justice.

Rao Saheb D. P. DESAI: What I wanted to say was that the High Court deal with cases wherein points of law are involved and they never go into evidence.

The Honourable the PRESIDENT: The honourable member meant to say that the High Court in its revisional jurisdiction deals only with questions of law, and does not interfere with the appreciation of evidence by the lower Court.

Rao Saheb D. P. DESAI: Yes, Sir. With these remarks I place my amendment before the Council.

Mr. B. G. PAHALAJANI (Western Sind): Sir, I rise to support the amendment moved by my honourable friend for Kaira. Coming from a province far more remote and benighted than other divisions, I have more authority to speak as regards the possible effect of this particular clause. I will go further and add that the Honourable Minister himself is from the Sind bar and that he must have as much experience as I have as to the use this section is put to by the executive officers. In the course of my practice I have come across several instances in which this section has been misused and abused by executive officers of the district. If this section is allowed to be retained, it will be rather difficult to find really good men for the district local boards. You know, Sir, the extraordinary powers given to the police of supervision, etc., under what is called the "*budmash*" section. This section is not a section of the Penal Code under which a man can be convicted for three years or fined. This is not based on real evidence in conformity with the sections of the Evidence Act, but based on what is called hearsay evidence. Under this section, the executive, from the lowest police officer to the highest executive of the district has got power to call upon any person who is viewed with distrust by the executive...

The Honourable the PRESIDENT: Does this provision exist in the original Act?

Mr. B. G. PAHALAJANI: No, Sir. This section is used as a weapon to be used against persons who are obnoxious to the executive. I can quote instances one after another in Sind. I know of a zemindar, paying assessment from Rs. 5,000 to Rs. 6,000, who was run in simply because he took sides with a member of the Council in his election. In Sind particularly, such instances largely occur. The District Magistrate is the officer responsible for the peace of the district; and under this guise section 110 of the Criminal Procedure Code is profusely used against not a robber or a thief, but against what are called 'obnoxious persons'. I need not give the results of such prosecutions. The convictions are universal, the percentage of reversal is extremely small. Unless a person consents to go to jail for three years and fails to give security the Sessions Court cannot be seized of this matter. If the District Magistrate himself tries the case, there is no appeal. If the executive chooses to send the 'obnoxious person' to jail or bind him over, it means even if that person has a thousand followers, he is to be debarred from entering the taluka or district local board. I say the effect of this clause in the rural areas will be disastrous, where the safety of reputation is not so great as in towns, where public opinion is not one-thousandth part of what it is in towns, and where from the highest zemindar to the lowest hari all are at the mercy of a head constable, or a sub-inspector of police or a revenue officer. The insertion of this clause is uncalled for. The indignation—I use the word indignation advisedly—that will be roused in the minds of the public in the country will be immense. People at the bar know to what use this clause will be put. I, therefore, submit that the Honourable Member in charge of the bill, who has suffered in the same way as a pleader on behalf of his clients, will see that this new introduction is not made in the bill.

The Honourable the PRESIDENT: The Council is adjourned to 2 p.m. to-morrow, Saturday the 9th December 1922.

*Saturday, the 9th December 1922.*

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The Council re-assembled at the Town Hall, Bombay, on Saturday the 9th December 1922, at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BELL, Mr. R. D.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
BULLOCKE, Mr. A. GREVILLE
CADELL, Mr. P. R.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
COCKE, Mr. H. G.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DABHOLKAR, Mr. V. A.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DRAKHAN, WADERO MAHOMED PANAH
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Honourable Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GODBOLE, Dewan Bahadur K. R.
GULAMHUSEN, Mr. SULTANALI SALEMANJI

Gupte, Mr. V. R.
Haji, Mr. Ibrahim S.
Halkatti, Rao Saheb Phakirappa Gurubasappa.
Hatch, Mr. G. W.
Havelivala, Mr. M. A.
Hayward, The Honourable Mr. M. H. W.
Hepper, Sir Lawless
Hood, Mr. A. J. F.
Jadhav, Mr. B. V.
Jennings, Major General W. E.
Kale, Rao Bahadur R. R.
Kambli, Mr. S. T.
Lalbhai Ambaram, Mr.
Lalji Naranji, Mr.
Lawrence, The Honourable Mr. H. S.
Ligade, Mr. S. P.
Lory, Mr. F. B. P.
Mead, Mr. P. J.
Mehta, The Honourable Mr. C. V.
Modi, Sardar Davar T. K.
Mohidinkhan, Khan Saheb Haji Hazrat Khan
Mohomed Salahuddin K., Mr.
Motiram, Rao Saheb Rupchand
Murphy, Mr. S. J.
Mutalik, Sardar V. N.
Nilkanth, Rao Bahadur R. M.
Ojha, Mr. Dipchand T.
Pahalajani, Mr. B. G.
Paranjpye, The Honourable Dr. R. P.
Parulekar, Rao Saheb L. V.
Patel, Mr. B. P.
Patel, Mr. J. B.
Pawar, Shrimant J. A.
Pradhan, Mr. M. W.
Proes, Mr. E. M.
Rahimtoola, The Honourable Sir Ibrahim
Rothfeld, Mr. O.
Saherwala, Khan Saheb I. A.
Salgar, Mr. R. G.
Setalvad, The Honourable Sir Chimanlal
Shirras, Mr. G. Findlay

SINDORE, Mr. H. N.
SURVE, Mr. A. N.
THAKOR of AMOD, Sardar NAHARSINGJI
THOMAS, Mr. G. A.
TRIVEDI, Mr. G. B.
WOODS, Mr. E. E.

## LOCAL BOARDS BILL (BILL No. XVI OF 1922).

(Consideration of clauses resumed.)

The Honourable the PRESIDENT: Order, order.

Question again proposed that in clause 9, leave out sub-clause (ii).

Khan Bahadur S. N. BHUTTO (Larkana District): Mr. President, I regret very much I cannot associate myself with my friend the honourable member from Sukkur in the remarks that he has made. He has exaggerated things to a very great extent. Matters are not so bad as he has painted them. I do admit that section 110 of the Criminal Procedure Code has on occasions been misused in the province of Sind. At the same time, it has proved useful and effective as well. There are no prescribed criminal tribes in Sind, except Hurrs, as in the Presidency, and that makes the work of the police a little more difficult. But as for the use of this section against zamindars and respectable class of people, there are not more than half a dozen instances during the last 25 years, when it is said to have been misused. The fact is that, leaving respectable classes of people aside, nobody could be hauled up under this section unless responsible people and his own neighbours come forward to give statements against him, which is very seldom done unless the man is really at fault. The allegations made against District Magistrates are all imaginary; they are responsible officers so steeped in law that they will not encourage prosecutions against innocent people. But it is an open secret that police subordinates in Sind are very corrupt. Sub-inspectors and inspectors of police in Sind live on a very high scale and require for their wants at least three times as much pay as they secure at present. District Superintendents of Police are sometimes misled; their intentions are honest, but they are often deceived by their subordinates. They make silly mistakes. There are police officials like Messrs. Manley and Healy of whom the police have got every reason to be proud, but every district police officer does not care to get at the bottom of the mischief and they depend too much upon their subordinate officials, who do not hesitate to take full advantage of the confidence that their superior officers repose in them and abuse their power right through. The secret of the whole mischief is that some police officials and some black sheep among the zamindars co-operate with one another and harbour thieves. These zamindars.....

The Honourable the PRESIDENT: It is quite clear to me now that the honourable member is reading from the manuscript. I do not wish to see the practice of the House departed from.

Khan Bahadur S. N. BHUTTO: I have got manuscript, Sir, but I simply look at it to refresh my memory. But if the President objects I will not look at it. I will speak *extempore*, Sir.

The Honourable the PRESIDENT: That will be certainly much better because the House knows that the honourable member can address *extempore*.

Khan Bahadur S. N. BHUTTO: These zamindars are not liked by the superior class of zamindars as it is believed. No respectable zamindar with self-respect can befriend police subordinate officials with their crooked ways. The police being in power, these respectable people remain in silence, so that the police might not entangle them at any time. Now the thieves who are harboured, the police and their zamindar friends share the booty. When things go very bad and regular distress and terror is created by their high-handedness, complaints reach the ears of responsible district officials, and the same police subordinate officials are compelled to haul up their zamindar friends under section 110 of the Criminal Procedure Code to save their skin and establish their prestige in the eyes of their superiors. Now, it cannot be said, as my honourable friend from Sukkur has pictured, that these zamindars are innnocent, but the point here is that those sub-inspectors and inspectors of police who were the associates of these zamindars unfortunately get scot-free, which is not fair and just. They ought to be run in along with these zamindars, which is not the case as most of the officials in Sind are too apt to protect their subordinates and do not believe anything against them. I further cannot accept my honourable friend's statement that if convicts under this section are debarred from entering the local boards, the boards will be deprived of the services of very useful and most competent people. I am sure the boards can very well do without these illustrious people. I am sorry to express, Sir, that it is no compliment to my country to say that there are no better people in it except convicts under section 118, Criminal Procedure Code, who are called *badmashes*. I feel sure, Sir, that no board will tolerate their presence on it. One cannot be made a *badmash* unless he actually is a *badmash*. People will not and cannot persecute an innocent, honest and harmless neighbour unless he proves to be undesirable to them all. I therefore oppose the amendment.

Rao Saheb D. P. DESAI (Kaira District): Sir, I have very few remarks to offer in reply, but there are some matters which require to be cleared up. This section is generally made use of by the District Magistrates to suppress dacoities, murders, thefts, and other like offences, and also to bring into trouble even law-abiding persons at times for reasons best known to themselves and as the judgment is passed on hearsay evidence it is doubtful that the persons are actually guilty of the offences for which they are charged. The District Magistrate thus takes advantage of this section to serve his own political ends.

The Honourable the PRESIDENT: I have said several times that no comments must be made upon the integrity or impartiality of any judicial tribunal. I cannot allow any insinuations against either the magistrates or judges.

Rao Saheb D. P. DESAI: The section allows commitment of persons on simply hearsay evidence of only one person.....

The Honourable the PRESIDENT: The honourable member may argue without making any such insinuations that the state of things is such that the police or anybody else may bring accusations and produce any amount of evidence and the court, which has only to judge upon the materials placed before it, may come to a wrong conclusion; in other words that the section is very dangerous.

Rao Saheb D. P. DESAI : I am thankful for the guidance, Sir, and say that the section is so wide that it takes honest as well as dishonest men into its clutches and the chances are that police authorities are liable to make misuse of it just as they desire on account of the provision that merely on hearsay evidence a person can be committed, and, as the magistrates pass their judgments on materials before them, the man is convicted. If the section were going to be used only for the suppression of dacoities, thefts, etc., I would have no occasion to speak against it, but here the case is different and I would rather think that the reformed Council should not allow the imposition of a section like the one under consideration.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Mr. President, I think I had better remove some of the impressions that appear to exist in regard to this amendment. The procedure in this case is that complaints are made in the first instance to a police officer of the rank of an inspector of police by the neighbours of a man who has been making himself obnoxious. Neighbours make a definite complaint that a man is a habitual offender or a habitual thief, robber or dacoit or a harbourer of thieves and robbers or is a man dangerous to the public at large, and they lodge a definite complaint before the police officer with evidence of general repute ; they also cite actual specific instances in which the man has committed such offences. But the difficulty in the case of an individual coming forward to lodge a complaint is great. It is so difficult for any individual to come forward owing to fear. Therefore, a number of neighbouring people go to the police with definite complaints against an undesirable person. Then the matter is thoroughly investigated by a police officer not below the rank of an inspector. The statements in the complaint are then verified by the District Superintendent of Police. It is not, as has been represented in this House by the honourable mover of this amendment, that one solitary witness's evidence is sufficient for conviction. A large number of people come forward not only to speak about the general reputation of the culprit, but also to cite specific instances of misbehaviour. When the police are satisfied as to the man's guilt, he is sent up for trial before a sub-divisional officer or a first class magistrate specially empowered. It is alleged that first class magistrates and sub-divisional officers are unfit to try cases under this chapter. When they try cases which are committed to the sessions and other cases in which a man is sentenced to the extent of two years' imprisonment, I do not think it can be said that they are unfit to try these cases. Besides, a competent first class magistrate, sub-divisional magistrate, tries these cases, and the proceedings are actually judicial proceedings. The accused is allowed to cross-examine the witnesses and to engage counsel. Further the accused is given an opportunity to produce his defence before a competent magistrate. He is given a fair and regular trial, and only convicted if found guilty. If on conviction he does not give security, he is sent to jail. That the decision of the magistrate, whether he is a first class magistrate specially empowered to try these cases or a sub-divisional officer, is not subject to appeal, is not correct. There is a right of appeal to the District Magistrate if the punishment is to the extent of 12 months, and in some cases when the court decides that the man should be bound down for good behaviour for three years, the magistrate after holding the enquiry sends the proceedings for confirmation to the sessions court. So, I have shown the House that these cases are tried by sub-divisional officers or other first class magistrates, who are all responsible officers of Government, and if they try cases involving punishment

[Khan Bahadur Shaikh Ghulam Hussain]

to the extent of two years' imprisonment we must take it that their decisions are right and proper. Now, I would put it to this House : Is a sessions court not competent to try these cases when it can hang a man ? Besides, the accused have a right of appeal and revision. If they are not satisfied with the decision of the sessions court, they can apply to the High Court for revision. Generally, it is a neighbour who will know the character of a man. The evidence of a man residing at a long distance is not taken into account, becuase he cannot know about the character and conduct of an individual. It is his neighbour who knows about it.

Sardar Davar T. K. MODI (Surat District) : I rise to a point of order. What has the evidence of a neighbour or a distant witness to do with this issue.

The Honourable the PRESIDENT : There is no point of order. It is relevant.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I am correcting, Sir, a statement to the effect that the evidence of a single solitary witness brought from anywhere was given weight to. It is only the evidence of such persons as know a man intimately that is taken into account. It is on their complaint that the case will be enquired into. It is not on the initiative taken by some one else, but on the complaint made by such people that the police will investigate the case. The Collector does absolutely nothing. District Magistrates are not people who run down any particular individual. The statement that they will do so is entirely wrong. What have the District Magistrates to do in this matter ?

Then, Sir, as regards the benighted province of Sind, I admit there might be some exceptions, but, as a general rule, only people who are actual *badmashes* are proceeded against. Khan Bahadur Bhutto, who himself is one of the biggest zamindars, said that only real *badmashes* are brought to book.

Mr. B. G. PAHALAJANI (Western Sind) : Can the Honourable Minister give any instances ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : No ; I do not think it either proper or necessary to give instances. I submit, Sir, if we remove this sub-clause, we will be allowing *badmashes* to come on the local boards. These *badmashes*, who are feared by the public at large, will get in on the local boards by threatening people. By accepting this amendment we would be simply allowing a large number of habitual offenders to monopolise the local boards.

Then, Sir, among the members of district local boards and taluka local boards are some officials ranging from a deputy collector to an assistant collector, and if the amendment is accepted we will be providing a defence for the *badmashes* as regards their associates.

Lastly, I submit that this amendment is not in the interests of the rural areas. Had it been intended to put it in the Municipal Act, that would have been different, because in the municipal areas we have public opinion and a press, but in the rural areas the conditions are quite different ; there is little or no public opinion, and scarcely any press. Therefore, I think, this House will do well to reject this amendment.

Question put: House divided: Ayes 27, Noes. 37: Amendment negatived.

*Division No. 4.*

**Ayes.**

BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DUBHASHE, Mr. SHANKAR BALKRISHNA
DWARKADAS, Mr. KANJI
GANDHI, Mr. C. M.
GODBOLE, Dewan Bahadur K. R.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
GUPTE, Mr. V. R.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
LALBHAI AMBARAM, Mr.
LALJI NARANJI, Mr.
MODI, Sardar Davar T. K.
MOTIRAM, Rao Saheb RUPCHAND
MUTALIK, Sardar V. N.
OJHA, Mr. DIPCHAND T.
PAHALAJANI, Mr. B. G.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
SINDORE, Mr. H. N.
TRIVEDI, Mr. G. B.

*Tellers for the Ayes:* Mr. G. B. TRIVEDI and Sardar V. N. MUTALIK.

**Noes.**

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADHAV, Mr. P. N.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
BULLOCKE, Mr. A. GREVILLE.
CHAUGULE, Mr. ANNAPPA PHADEPPA
COCKE, Mr. H. G.
COOPER, Khan Bahadur D. B.
DABHOLKAR, Mr. VASANTRAO ANANDRAO
DALAL, Mr. D. B.
GARUD, Rao Bahadur S. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HATCH, Mr. G. W.
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
JENNINGS, Major General W. E.
LAWRENCE, The Hon'ble Mr. H. S.
LOBY, Mr. F. B. P.
MEHTA, The Hon'ble Mr. C. V.
MURPHY, Mr. S. J.
NILKANTH, Rao Bahadur R. M.
PARANJPYE, The Hon'ble Dr. R. P.
PARULEKAR, Rao Saheb L. V.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM.
ROTHFELD, Mr. O.
SAHEBWALA, Khan Saheb I. A.
SETALVAD, The Hon'ble Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY
SURVE, Mr. A. N.
THAKOR of AMOD, Sardar NAHARSINGHJI
THOMAS, Mr. G. A.

*Tellers for the Noes:* Major-General W. E. JENNINGS and Mr. O. ROTHFELD.

The Honourable the PRESIDENT: Then, the next notice of amendment is by Mr. Surve as follows:—

"In clause 9 (1) (c), add another sub-clause (vi) as follows:

'Having been an elected member has vacated his office as such member under section 129 (2)'."

Now, as regards this, the honourable member wishes to disqualify for election all those elected members of the board who have vacated. Vacated in what way? By flux of time, or what? Will the honourable member kindly explain?

Mr. A. N. SURVE (Bombay City, North): Sir, clause 129 gives Government the power to dissolve or supersede local boards in certain cases, and sub-clause (2) of that clause provides that when a local board is dissolved or superseded, all members of the board shall, as from the date of the order, vacate their offices as such members. I want that at the fresh election those members should not be returned again. Supposing a board is dissolved, and a fresh election is held, then at the fresh election, those members who have vacated their seats under section 129 (2) should be disqualified.

The Honourable the PRESIDENT: That is a point for the Council. There is no question of order in it. The honourable member may go on.

Mr. A. N. SURVE: Sir, I beg to move my amendment, which has already been read out to the Council by the Chair. I wish that this diqualification should be included in the clause.

The Honourable the PRESIDENT: May I suggest to the honourable member that instead of the words 'vacated his office as' the words 'has ceased to be' will be more appropriate? What I suggest will bring out the idea more clearly.

Mr. C. M. GANDHI: The honourable member is using the language of section 129 (2).

Mr. A. N. SURVE: The reason for this is that the Government under section 129 have reserved power for either dissolving a board or superseding it under certain contingencies.

The Honourable the PRESIDENT: There is another difficulty. This addition is closely connected with and contigent upon section 129; the Council is not yet seized of that section; and the Council may pass it or may not pass it. Therefore, the question arises whether the hands of the Council can be bound down in regard to that section at this stage.

Mr. A. N. SURVE: No amendment has been brought against that section. You will be putting that section before the Council and it will be accepted.

The Honourable the PRESIDENT: I have to go clause by clause. The Standing Orders compel me to put the clauses one after another. I may suggest one way out of this difficulty. We may take this up with section 129. The honourable member had better remind me of it, when that clause comes.

The next amendment stands against the name of the Honourable Minister. May I point out that there is a small but important omission? He wants a sub-clause to be added as sub-clause (f). There is the word 'or' at the end of each preceding clause. Therefore, the word 'or' should be inserted at the end of sub-clause (e).

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: There is the word 'or' in the original bill.

Mr. C. M. GANDHI: Shall I rise to a point of order, Sir? We have already passed a clause disqualifying pleaders whose sanads have been withdrawn permanently. Having passed that, no case remains to be dealt with as regards the temporary suspension of sanad. Therefore this does not now remain for discussion.

The Honourable the PRESIDENT: I do not think there is any inconsistency. One deals with permanent withdrawal and the other deals with temporary suspension.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: In the original bill there was a provision that if the sanad of a pleader was suspended even for a short time he was disqualified permanently. It was pointed out in the select committee that this was a very severe punishment. Therefore this clause has been amended accordingly.

The Honourable the PRESIDENT: These sections are poles apart. I think you had better propose it after sub-clause (1) (c) (v).

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I move that

"At the end of sub-clause (1) (c) (v) of clause 9, add (d), 'or is a pleader whose sanad has been suspended, during the period of his suspension' or."

[Khan Bahadur Shaikh Ghulam Hussain]

I have just now told this House what the intentions of Government are in proposing this amendment. A pleader whose sanad has been permanently withdrawn is debarred under sub-clause (iv). But a provision of this nature is necessary because there are cases of pleaders whose sanads are suspended only for one or two years and the disqualification in their cases should be only during the period of suspension. When we have provided for the removal of other disqualifications, I do not see why we should not provide for the cases of pleaders whose sanads have been suspended only for one or two or three years.

Rao Bahadur R. R. KALE (Satara District): Mr. President, this matter is full of difficulties, and it is likely to create complications which to my mind seem to be out of all proportion. In the first instance I do not quite understand the motive of this amendment. Is it intended that a pleader whose sanad is suspended for a short period should be disqualified when the elections come on during the period of his short suspension? Is such a pleader disqualified from standing as a candidate? Also there may be a pleader who is occupying a seat on the local board. Now if that pleader's sanad is suspended, say for a period of six months or one year, then is it to be considered that there is a vacancy? In such a case his sanad being suspended only for six months or one year, there will be a vacancy on the local board only for six months or one year. Now suppose during that period another man is elected, he will continue to occupy the seat even after the pleader becomes qualified. In fact it comes to his being permanently disqualified. That is to say, if he is suspended for two months—we know of cases where there are such suspensions for short periods—the effect is that the punishment lasts for three years. That, Sir, is a very great hardship.

The Honourable the PRESIDENT: The only way to get rid of that difficulty would be to propose an amendment to this amendment inserting the words "suspended for two years or three years".

Rao Bahadur R. R. KALE: I am only pointing out the very rare cases in which a contingency of that kind is likely to occur. Therefore, is it right to have a provision of that sort? That is the point that I am making, because, after all these are only temporary disqualifications, while other disqualifications are permanent disqualifications. Now, here you are attempting to provide for a sort of temporary disqualification. If you show that by the necessity of circumstances such a temporary disqualification is necessary by force of circumstances, namely that there are such a great number of vacancies on the local boards by means of such temporary suspensions, that may be some argument in favour of this amendment. To my mind, there is no doubt that such cases are very rare in which a difficulty of this kind has arisen. I therefore think that there will be difficulty in the way of dealing with the proposed sub-clause, if it is allowed to go in permanently in the statute book.

The Honourable the PRESIDENT: Having regard to the sub-clause (c) (*i*) which says "having been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months," if a man is sent to jail and gets imprisonment of less than six months, he is not disqualified.

Mr. C. M. GANDHI: Even then there are offences which are punishable with a sentence of "till the rising of the court".

Rao Bahadur R. R. KALE : This matter was fully gone into by the select committee ; notwithstanding that, the Honourable the Minister has brought in this amendment. But at any rate is there nothing in the point that permanent suspension of a sanad should be regarded as an offence and that a temporary suspension should not be regarded as an offence ? After all if a man is disqualified as a pleader, that should be a disqualification. The point is the gravity of the offence just as in the case of an offence which disqualifies a man provided he is found guilty of an offence punishable with imprisonment for more than six months, it is a serious offence while for an offence punishable with an imprisonment of less than six months, he is not disqualified. So it is to be considered whether suspension of any kind should be regarded as a disqualification. Here the result will be that if a man is suspended at the time of the elections for three months, then he will be debarred for three years, that is, until the next election comes. This is a point which I think the Honourable Minister has not considered, and I ask him whether it is worth while embodying this clause in the bill.

Mr. C. M. GANDHI (Surat City) : Sir, I should also oppose this amendment. I fail to see the reason which has prompted the Honourable Minister to move this amendment after the matter was discussed in the select committee. I was not a member of the select committee, but reading section 15 of the District Municipal Act from which the original sub-clause (iv) was bodily taken, it appears that the original clause was to disqualify a pleader whose sanad had been withdrawn by the High Court even temporarily : but the select committee seems to have thought that a pleader should be disqualified only in case his sanad was withdrawn permanently. Therefore, the deliberate opinion of the select committee was that, if his sanad was not permanently withdrawn, then he should not be penalised at all. We are painfully aware of late of cases in which pleaders holding certain political views presiding at certain meetings which were found to be objectionable were suspended for breach of discipline. Is it right, when the number of public spirited men to work on the local boards is so small, to penalise a pleader whose sanad has been suspended for a short time to mark the displeasure of the High Court at his lapse from the high degree of integrity and etiquette which a pleader is supposed always to observe ? Because the High Court chooses to mark its displeasure by a punishment of this nature, because that is the punishment open to it, is it right that such a pleader should be debarred from taking part in district local boards for three years ? (The Honourable Khan Bahadur Shaikh Ghulam Hussain : Not for three years.) Any man who reads the section with the comments of my honourable friend from Satara will support my view. The elections are held every three years, and if a man is suspended at the end of a term he cannot stand for the next election and thus he will not be able to enter the district local board for three years. I really want to know from the Honourable Minister whether there have been cases where pleaders whose sanads were suspended tried to thrust themselves to do public work and that public work has suffered by that. If not, there has been no case made out for introducing an amendment after the deliberate opinion of the select committee that only pleaders whose sanads are withdrawn permanently by the High Court should be disqualified. I hope, therefore, that the Honourable Minister will withdraw the amendment.

Mr. KANJI DWARKADAS : Sir, I rise to support the amendment moved by my honourable friend the Minister for Local Self-government. The arguments my honourable friend from Surat (Mr. Gandhi) used go against him in so much as he says that a pleader who goes to a meeting or

[Mr. Kanji Dwarkadas]

joins a movement which is out to destroy Government must not be disqualified from membership of a local board. Government of course cannot take that view. Surely, a member who is out to destroy Government, who is out to join a movement which is out to destroy Government, cannot with any self-respect to himself practise in a British court, and therefore it is but right that his sanad should be withdrawn, and his sanad having been taken away, I think he should lose the opportunity of being elected a member.

Mr. B. G. PAHALAJANI (Western Sind): Sir, a Government servant may be suspended for the most heinous offence, but as long as he is not convicted or dismissed but only under suspension, there is no disqualification for a Government servant, from being a member of a local board. But so far as pleaders are concerned, my honourable friend the Minister in charge of Local Self-government wants that as soon as his sanad is suspended he should be disqualified. My honourable friend knows that in every sanad issued to a pleader there is a provision that his sanad is liable to be suspended temporarily by the District Judge and withdrawn by the High Court, so that a District Judge may on account of some difference suspend a pleader and then report the matter to a High Court, and it is only the Full Bench of a High Court that can withdraw the sanad. Simply because a pleader has the misfortune to have his sanad withdrawn temporarily by a District Judge he should not be disqualified from contesting the elections. You will therefore be pleased to see the unwisdom of the suggestion that mere suspension should be a disqualification. Suspension is not the consequence of the verdict of any court or High Court; a pleader is not suspended after the offence has been proved; it is simply an order pending certain orders of the High Court. It was for these reasons that when the matter was discussed in the select committee the inconvenience was brought to the notice of the Honourable Minister. Section 15 of the District Municipal Act, from which the original section was bodily taken, was duly discussed in the select committee and finally all agreed—(An Honourable Member: Not all)—the majority agreed that permanent withdrawal of the sanad should alone disqualify. I am certainly aware that all did not agree. My honourable friend the Registrar of Co-operative Societies, who did not agree, has not however recorded a dissent either in his dissenting minute or in the proceedings before the select committee. I may therefore take it, Sir, that after full discussion a compromise was arrived at that the word 'permanent' be added to satisfy all differences. It was a sensible addition because after all the gist of the argument put forward by my honourable friend for Satara is really this: if at the time of an election or a little before the time of election, even a day before election or even a few hours before election, there is an order of suspension issued by a District Judge in matters which may or may not even go to the High Court, that pleader is disqualified for the next three years. The hardship is so great and the nature of the circumstances under which this power of suspension is to be used is made so trivial that I think this Council ought not to accept the amendment and that it should be withdrawn by the Honourable Minister in charge of the bill.

Mr. G. B. TRIVEDI (Thana District): Sir, I rise to oppose this amendment proposed by the Honourable Minister. The pleader class was once proud of belonging to the profession but now-a-days it seems that (not being a lawyer I think I can speak impartially on this subject) it is not so. I think, Sir, that while we are giving democratic rights to local bodies, we should not leave any weapon in the hands of the bureaucracy with which they can prevent people

[Mr. G. B. Trivedi]

who are worthy of serving the public on local bodies from doing so. It was up to now always taken for granted that a man belonging to the legal profession was a true leader of the people. We have in the past always drawn our leaders from that honourable profession, but it seems both the people and the Government are now bent upon lowering the prestige of that profession, and therefore I think that we should protest, in these democratic days when we are giving democratic constitution to local bodies, against Government's trying even to take away the right of a pleader serving on the local boards whose sanad has been suspended, and suspended by whom ? As my honourable friend said that it can be suspended by a District Judge and it is merely on a suspension, not conviction, which is sought to be held sufficient to disqualify a pleader from being a member of a local board, so that on mere suspicion a sanad is suspended and the man who would otherwise be a most useful member in public life becomes debarred. We have been protesting against debarring all those who can be useful members of these local bodies. It will be found when this constitution is working that there will be a paucity of men of real public spirit on local bodies and if at such a time we go on importing our political views in this matter and try to debar this man and that man on flimsy grounds like this, where shall we end ? Therefore I hope that the Honourable Minister in charge will reconsider his position and will not press this amendment on this House.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, under the old Act the pleaders have a vote; now that right is being taken away. They have certain rights now and even a little suspension which may later be quashed by the High Court is sought to be made so final that the pleader concerned becomes disqualified for three years. I think pleaders deserve better treatment in view of what they have done in times gone by. What is exactly the present position ? It is this, that a man when convicted, not when he is under trial but when he is convicted and sentenced to a substantial punishment for an offence which involves moral turpitude, however deserving and capable a member of a local board he may be, becomes disqualified from continuing a member of that body. When a Government servant is dismissed, then he goes off, but if he is under trial he is quite a fit member to sit on the local body. What is the use of it ? Under this clause, however useful a member a pleader may be, the moment he is suspended he ceases to be a member of that body. I will give an instance which actually occurred in my own district recently. An apology was demanded from a pleader who was a member of the local body—he was in charge of the sanitary work—it was a case of mere expression of regret, but somehow or other the pleader considered that it was not a fit case deserving expression of regret on his part. He thought it was a case, if anything, of mere disciplinary measures. The case went to the High Court and the Honourable Judges there thought that expression of regret was essential and as the pleader had not expressed regret his sanad was suspended for one month. May I now know, Sir, whether under this section that pleader would cease to be a member of that local body for three years, although the suspension was for one month only ? Should not the punishment be in proportion to the gravity of the offence ? The pleader in question was doing very useful work. Simply because he did not express regret, his sanad was suspended for a month. That therefore his right to be a member of that local body should cease for three years seems to me at any rate to be quite disproportionate to the nature of the offence, if any. For this reason (which I have amplified by giving a real, actual instance

[Rao Bahadur G. K. Chitale]

of recent date which happened in the Ahmednagar district) I think the Honourable Minister must agree (if he does not agree, then I think he is illogical and unreasonable) that there is no case made out for pressing this amendment on this Council. We want that good and deserving people should sit on all these local bodies. Now in these days of democracy we may not always get the best men. I know sometimes when we want votes, some people vote according to the position in which they are placed, because there are some Government members on the boards and for other reasons. However, Sir, that may be, we have to take stock of all these things and there are various things which are likely to lead to that result. If the Honourable Minister gives any very good reasons why these people should not have the opportunity of being elected, I will vote with him. If he has no good reasons, I will vote for the amendment.

Mr. DIPCHAND T. OJHA (Karachi City): Mr. President, I support the amendment. I think, Sir, a member of the legal profession is a very fit person to serve on any public institution. Experience has proved it and I hope, Sir, that this Council will show its approval to the idea that members of the legal profession should be as much as possible on public bodies. Here we find, Sir, even in the Council that most of the members of the Council are men of the legal profession, and in the cabinet too, Sir, we find more than half of the members belonging to the Judicial Department. Now, Sir, if for a trifling reason a member of the legal profession is debarred, that does not mean, Sir, that in other respects he will not be able to do some public duty as efficiently as anybody else. Of course, in the present times a member of the legal profession is considered to be an eye-sore and attempts are made to see that he is kept as far away as possible. But we should not at the same time forget that in the minds of the public there is no doubt as to whether or not a member of the legal profession will be useful in the administration of the affairs of local bodies or even of the country. We, Sir, must not forget that we are all in a reformed province, where the Government is asking for co-operation of the people with people in authority and the spirit of reforms should not be lost sight of. I am sorry, Sir, that the Government should be so very conservative as to provide that useful members of society like members of the legal profession, who would be so useful to serve on local bodies, municipalities, local boards or elsewhere, should be debarred from becoming useful to their brethren. There may be several reasons why a member of the legal profession may be deprived of his sanad, whether temporarily or permanently, but there is every reason to say that a member of the legal profession would be most useful on a local body, because, so far as local self-government is concerned, it is the independence of members that we want and not servility as often is the case at present. I therefore support the amendment proposed by my honourable friend.

The Honourable Mr. M. H. W. HAYWARD: Mr. President, I should like to say a few words on this subject. The cases fortunately are few in which members of the legal profession are brought before the courts in the exercise of disciplinary jurisdiction, which is vested in Sind in the Court of the Judicial Commissioner and in the Presidency proper in the High Court. Cases are few, but there are cases which are so serious that it is necessary for action to be taken by these judicial authorities. The cases which have come before the courts in these twenty years can almost be numbered on the fingers of a man's hands. Within my own experience I can say that in no single case in which

[Mr. M. H. W. Hayward]

it has been found necessary to suspend a pleader did that pleader deserve to have a seat on any public body whatever. If it is a small matter, it is generally dealt with by a friendly warning by the District Judge or by the Bar Association. It is only when the pleader has been guilty of some deliberate dishonesty which would debar him from the society of all clean and honest men that action is taken against him. It is only when he has deliberately defrauded his clients or mismanaged their money or their property, or disobeyed flagrantly the regular rules of procedure laid down, or has in some other manner been guilty of a serious misconduct that such action is taken. But even when such action is taken, it is very seldom that suspension of the sanad is permanent. Ordinarily, there is a short period of suspension extending to less than a year; sometimes extending to as much as three years. But it is only in very grave cases that the suspension is permanent. The provision in clause 9 relating only to permanent suspensions of a sanad is therefore in my own opinion inadequate, and I think that opinion will be shared by most of the members of this House. It has, therefore, been thought necessary to add this further clause referring to suspension for a period and not permanently. The further clause reads:

"is a pleader whose sanad has been suspended, during the period of such suspension."

and there was one point, a good point, raised by some honourable members of this House, that it would be unfair to apply this provision to the case of a man suspended pending investigation into his supposed offence. The cases in which a pleader is suspended pending investigation are still fewer. I am not even sure that such power is vested in the courts. I know, when I was sitting as a member of the Court of the Judicial Commissioner in Sind, we came to the conclusion that there was no such power. But there may have been since then amendments of the Act. There probably is such a power in the High Court. There may possibly therefore be cases in which a man may be suspended pending an enquiry into his conduct. I am quite ready to admit that in cases like that it would be better to await the final result of the trial, and that could be done by simply adding the words 'after due trial' after the word 'suspended'. If the further clause were to read thus:

"is a pleader whose sanad has been suspended after due trial, during the period of such suspension."

then the clause would take effect only in respect of pleaders whose case had been fully investigated, and who, after full investigation, had been declared to have been guilty of serious misbehaviour; after investigation by the High Court, or by the Court of the Judicial Commissioner in Sind, the highest tribunal in that province. I think, therefore, that the House would be well advised to retain this provision which has been proposed by the Honourable Minister. If any honourable member would like to move the insertion of the words suggested, then that amendment will certainly receive my support; or I will myself move it if it is open to me to move an amendment to this amendment.

The Honourable the PRESIDENT: Before an appeal is made to me, the Honourable Minister ought to agree.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I have no objection, Sir.

The Honourable the PRESIDENT: It is entirely within my power, but as a matter of courtesy, I have said that if an amendment is put forward on the spur of the moment, it must be done with the Minister's concurrence.

The Honourable Mr. M. H. W. HAYWARD: Sir, I propose then to insert the words 'after due trial' after the word 'suspended'.

The Honourable the PRESIDENT: What does it mean?

The Honourable Mr. M. H. W. HAYWARD: I believe there is a case in which a sanad was suspended pending an enquiry. I have a recollection of an old case where a District Judge suspended a sanad pending report to the High Court.

The Honourable the PRESIDENT: The best way of amending it would be to insert the words 'by final order of the High Court' after the word 'suspended'.

The Honourable Mr. M. H. W. HAYWARD: I will then propose to insert the words 'by final order of the High Court' after the word 'suspended'. I might point out that the words 'High Court' would include the Judicial Commissioner's Court in Sind.

The Honourable the PRESIDENT: That may come in as an explanation. Is the honourable member sure of his interpretation?

The Honourable Mr. M. H. W. HAYWARD: I think it comes in the Sind Courts Act, which provides, I think, that the Judicial Commissioner's Court in Sind is the High Court for Sind.

The Honourable the PRESIDENT: Then I think an explanation will have to be added that the words 'High Court' shall include the Judicial Commissioner's Court in Sind. I do not like legislation by reference.

The Honourable Mr. M. H. W. HAYWARD: The explanation then might be: "The High Court means in Sind the Court of the Judicial Commissioner of Sind".

The Honourable the PRESIDENT: Means and includes.

The Honourable Mr. M. H. W. HAYWARD: Very well, Sir, "The High Court means and includes the Court of the Judicial Commissioner of Sind". It will be the whole Court. Such matters come before the Full Bench.

The Honourable the PRESIDENT: The question is now amended. It will be:

"Add at the end of clause 9 (1) the following:—

'(*d*) is a pleader whose sanad has been suspended by final order of the High Court, during the period of such suspension.'

*Explanation*—The High Court shall include the Court of the Judicial Commissioner in Sind."

The debate will proceed upon that.

Rao Saheb D. P. DESAI (Kaira District): Mr. President, I oppose the amendment. I fail to understand how you can mend matters. The objections of Rao Bahadur Chitale and other pleader friends of mine here to the former amendment of the Honourable Minister still remain. The suspension of a sanad, even by the final decision of the High Court, only for two months, will have the effect of disqualifying a pleader from being a member of the local board for three years. Rao Bahadur Chitale also said that a servant or an officer of Government is not disqualified, while a pleader, for want of courtesy on his part, is suspended by the High Court for about two months, and that would disqualify him for three years. I cannot understand why the Honourable

[Rao Saheb D. P. Desai]

Minister should be so anxious to circumvent the decision of the select committee. In the select committee it was distinctly said that in order to exclude such temporary cases the word " permanently " should be put in and it was so done, but here the Honourable Minister is actually including cases of suspension also in this clause. I, therefore, oppose the amendment.

Mr. M. A. HAVELIVALA : I move the closure.

The Honourable the PRESIDENT : I accept the closure.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, this is not a new provision we are putting in here. In the District Municipalities Act, there is a provision that, if a pleader's sanad is either suspended or withdrawn, he should be disqualified. What I ask is, why should there be any differentiation between municipalities and local boards. It includes both. (At this stage some honourable member tried to interrupt.)

The Honourable the PRESIDENT : Order, order. Let the Honourable Minister proceed uninterrupted.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Looking at the Bombay Electoral Rules, we find that a pleader who has been dismissed or is under suspension from practising as such by order of any competent court is disqualified. I again ask, if that is so in the case of the Council, why should there not be the same disqualification in the case of the local boards ?

Question put.

House divided : Ayes 42 ; Noes 22. Amendment carried.

*Division No. 5.*

**Ayes.**

ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BELL, Mr. R. D.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
BULLOCKE, Mr. A. GREVILLE
CADELL, Mr. P. R.
COCKE, Mr. H. G.
COOPER, Khan Bahadur D. B.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DRAKHAN, WADERO MAHOMED PANAH
DWARKADAS, Mr. KANJI
GHOLAP, Mr. D. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GULAMHUSEN, Mr. SULTANALI SALEMANJI
HATCH, Mr. G. W.
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
HEPPER, Sir LAWLESS
JADHAV, Mr. B. V.
JENNINGS, Major General W. E.
LAWRENCE, The Hon'ble Mr. H. S.
LIGADE, Mr. S. P.
LOBY, Mr. F. B. P.
MEHTA, The Hon'ble Mr. C. V.
MURPHY, Mr. S. J.
PARANJPYE, The Hon'ble Dr. R. P.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SETALVAD, The Hon'ble Sir CHIMANLAL
SINDORE, Mr. H. N.
THAKOR of AMOD, Sardar NAHARSINGHJI
THOMAS, Mr. G. A.
WOODS, Mr. E. E.

*Tellers for the Ayes :* Mr. KANJI DWARKADAS and Mr. O. ROTHFELD.

**Noes.**

BHATE, Mr. G. C.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHITALE, Rao Bahadur G. K.
DESAI, Rao Saheb DADUBHAI P.
DUBHASHE, Mr. SHANKAR BALKRISHNA
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GODBOLE, Dewan Bahadur K. R.
GUPTE, Mr. V. R.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
MOTIRAM, Rao Saheb RUPCHAND

Noes—*contd.*

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| MUTALIK, Sardar V. N. | PATEL, Mr. B. P. |
| NILKANTH, Rao Bahadur R. M. | PATEL, Mr. J. B. |
| OJHA, Mr. DIPCHAND T. | SURVE, Mr. A. N. |
| PAHALAJANI, Mr. B. G. | TRIVEDI, Mr. G. B. |
| PARULEKAR, Rao Saheb L. V. | |

*Tellers for the Noes :* Rao Bahadur G. K. CHITALE and Mr. C. M. GANDHI.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I move that

"In sub-clause (1) of clause 9, '(*d*)' should be altered to '(*e*)'."

Amendment carried.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I move that

"In sub-clause (1) of clause 9, '(*e*)' should be altered to '(*f*)'."

Amendment carried.

Rao Saheb D. P. DESAI (Kaira District) : Sir, I move that

"In sub-clause (2) of clause 9, after (*d*) add the following :—

'(*e*) having a share or interest in the occasional sale to the local board of any article in which he regularly trades or in the purchase from the local board of any article, to a value in either case not exceeding in any official year five hundred rupees or such higher amount not exceeding two thousand rupees as the local board with the sanction of Government may fix in this behalf, or

(*f*) having a share or interest in the occasional letting out on hire to the local board or in the hiring from the local board of any article for an amount not exceeding two hundred rupees as the local board with the sanction of Government may fix in this behalf.'"

These two clauses, Sir, have been taken from the District Municipal Act. There members are allowed to deal with the municipalities within the limits prescribed by these two clauses. I do not think why the district local board members should be so distrusted as not to have the same honesty as the municipal members. Again, Sir, in the districts, a district local board may have at times to hire from members houses or other properties such as fields for the purposes of this Act and in that case, there is no justification in preventing the district local boards from hiring from the members any such property. Then there are other cases. In the districts there may be traders dealing in particular articles who may also be members of the district boards and they may offer those articles to the district boards at a cheaper rate than any other trader. So, let there be competition so that the latter may not take advantage of his position and charge the district board a higher rate. It is always better for district boards to have this freedom within the limitations prescribed in the above two clauses.

Then again, we have got that pleader clause there. If a pleader member of a local board can hire out his brains for the local board and if the local board can get his brains for local board purposes, I cannot understand why any other member cannot hire out his articles or fields to the local board. So I think this concession ought to be allowed.

Of course, if the Honourable Minister is going to remove these clauses from the District Municipal Act, I have no objection if these clauses are not here. But so long as they stand in the Municipal Act, I do think that in order to avoid difficulties and in order to cheapen the cost of these articles to the district local boards these clauses may be inserted. I, therefore, move that these two clauses may be added.

The Honourable the PRESIDENT : As it is the general sense of the House that we should adjourn to-night at 6-15, in order to enable honourable members to attend the important function which is being performed by His Excellency at 6-45, we will adjourn at 6-15 p.m.

*After recess.*

The Honourable the PRESIDENT : Order, order.

Rao Bahadur G. K. CHITALE (Ahmednagar District) : Sir, I must oppose this amendment. The most essential thing is that all the members must be above suspicion in connection with money matters. The wording of the amendment applies also to small taluka local boards, and this is a reason which compels me to say that this amendment ought not to be accepted. I know of cases where this right has been abused. I must say, Sir, that this amendment is borrowed almost bodily from the Municipal Act. But we must remember that in municipal areas we have a large number of members residing and the pressure of public opinion there is certainly much stronger to resist the temptation that members are exposed to. In taluka local boards and district local boards the members being drawn from wide areas, it is just possible that in matters of everyday routine, articles of everyday use, and other matters such as printing, etc., the right is likely to be abused. It is, therefore, necessary that at least in local boards there ought to be this disqualification, so that members may be above suspicion. Even though their motives may be very honest, they should not be allowed to trade. Under these circumstances I hope that the mover of the amendment will withdraw it.

Sardar Khan Bahadur A. M. DALAL (Broach District) : Sir, I also oppose this amendment. I have had experience of local boards, and I think it is most essential that this amendment should not be allowed to go in the body of the bill, because members must be above any temptation.

Mr. B. G. PAHALAJANI (Western Sind) : Sir, it may be necessary, while His Excellency is on tour, to obtain on hire or on loan articles that are necessary for such purposes. In the absence of this amendment, no member of a district or taluka local board can let, borrow or hire even a few chairs or other articles even for an entertainment. The framers of the Municipal Act became cognisant of that difficulty and as recently as 1914 thought it necessary to introduce these two clauses. It took thirteen years for the Government to realise the inconvenience. Before those clauses were introduced, a member of a municipality could not hire or let even 50 chairs to a person who is a member without his incurring disqualification. Sir, it is a very good wish that the members of the district local boards should be above suspicion. But the rule worked so hard that when brought to the notice of the Government in 1914, these clauses were added to the District Municipal Act. Sir, there is a limit of Rs. 500 and Rs. 50 and in the case of higher amounts the sanction of the Government is required. So there is sufficient safeguard against abuse. So far as sales of articles for less than Rs. 500 in an official year is concerned and so far as occasional letting out on hire to the local board or the hiring from the local board of articles of less than Rs. 50 in any official year is concerned, the local boards will in no way suffer.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : How many members have paid the hire for municipal chairs ?

Mr. B. G. PAHALAJANI : The Honourable Member in charge wishes to know how many members have paid hire for municipal chairs. Well, I will

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inform my honourable friend that so far as our municipality is concerned, I have paid to the municipality for such hire. Municipalities have insisted on payments being made for letting out chairs or *shamianas*. Municipalities, I know, are very strict in this matter and, if this disqualification is allowed to go in, in practice it will be extremely difficult to get chairs and *shamianas* for the purpose of entertainments.

Rao Saheb D. P. DESAI (Kaira District): Sir, in the absence of any such provision there may be some difficulties: suppose a district local board wants materials belonging to one of its members which are not to be had near by and wants them very badly, then what is it to do? Should it go without them; or supposing a district local board wants chairs, tables and other articles badly, should it import them at a higher cost? The honourable member for Western Sind, Mr. Pahalajani, has sufficiently shown that this provision is absolutely necessary, and so I will not repeat what he has said but shall rest content by saying that, in order to guard against excessive trading and such contingencies, there are sufficient safeguards laid down in these two clauses and permission of Government is required before a purchase exceeding Rs. 500 in value can be made. In all other cases I think the decision of the district local board should be final and I see no reason why we should doubt their sense of fairness and loyalty in this regard. Again, Sir, if any member does want to practice dishonesty and trade with the local board against the spirit of the Act, he can do it in some way or other, as for example through somebody else, that is, in the name of a friend or relation he can transact such business; so on this ground why should we not give limited freedom in order to avoid greater evil?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I wish to point out at the outset that the conditions in municipal areas are different from the conditions in local board areas. You cannot compare conditions in cities with those in villages. In a city you usually have newspapers and other organs of public opinion whereas in villages there is nothing of the kind. If in a city a member of a local body tried to benefit himself by transactions with the local body that fact would be severely criticised by the newspapers and other organs of public opinion. But in rural areas there is absolutely no such thing as a newspaper or public opinion. Therefore the conditions in the two places differ. Besides, I consider that, when local boards are going to have such vast powers, they ought to be above suspicion. What will be the result if we accept this amendment? Suppose members of a district local board choose to do business with the board; they can do so, under the amendment to the extent of Rs. 20,000.

The honourable member for Sukkur spoke of the difficulty of providing a *shamiana* or a chair. If a member wants a *shamiana* or a chair he can get it easily from somewhere else rather than from the boards.

I doubt whether, if we put in this provision in the clause, it will be to the interest of the local boards. When we are giving such responsibilities to local boards, will not the whole world complain that members of local boards are transacting business with the boards on behalf of themselves? The honourable member from Kaira says that if a man is so bent, he will achieve his object somehow or other. If the fact becomes known, however, I am sure the man will be brought to book and be disqualified under this Act. I hope therefore this Council will throw out this amendment.

Amendment negatived.

Clause as amended ordered to stand part of the bill.

Clause 10 (*Re-eligibility of members*) ordered to stand part of the bill.

Clause 11 (*Preparation of lists of voters*) ordered to stand part of the bill.

Clause 12 (*Publication of the lists*):

(1) A list prepared under section 11 shall be published by affixing, in some conspicuous place in or near the office of the local board and of each Mamlatdar, and in the chavdi or some other public building of each town or village in the district, a copy of the list or of so much of the list as relates to the taluka, town or village.

(2) The publication aforesaid shall be made in the vernacular language of the district and where a date has been fixed for any election of persons to fill the places of members whose terms of office have expired, at least three months before such date.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, the amendment I propose is:

"In line 2 of clause 12 (1), after the word 'Mamlatdar', the words 'and mahalkari' be added."

The object of this amendment is obvious. It is that the lists should be published not only in the mamlatdar's office but also in the mahalkari's office, as there are several revenue units which are inferior to those in charge of a mamlatdar and which are controlled by what are called mahalkaris.

Amendment carried.

Clause as amended ordered to stand part of the bill.

The Honourable the PRESIDENT: Now as to clause 13, there is a notice of an amendment by Rao Saheb Harilal Desai to add the words "free of stamp" in line 2 after the word "application." I rule it out of order under section 80 C of the Government of India Act, because under the Stamp Act an eight-anna stamp must be paid on every application to a Collector (See Court-fees Act, 1870, Schedule II, sub-clause (1) (*b*). There is no other notice of amendment except Mr. Trivedi's, which in the first place is beyond time and in the second place out of order. I need not go into the reasons.

Clause 13 (*Revision of lists*) ordered to stand part of the bill.

Clause 14 (*Final publication of list. Lists conclusive evidence of right to be elected or to vote*) ordered to stand part of the bill.

Clause 15 (*What persons may be voters at elections*).

(1) Unless disqualified under this Act or under any other law for the time being in force the following persons shall be entitled to have their names entered in the list for a constituency prescribed under section 6 qualifying them to vote at elections of members of taluka local boards in such constituency, namely:—

every person who on the first day of January next preceding the date on which the list is published under section 12 had a place of residence within the taluka and who—

(*a*) (*i*) on the first day of January aforesaid held in his own right or occupied as a permanent tenant or as a lessee from the Government alienated or unalienated land in Sind on which, in any one of the five revenue years preceding the date of publication of the list under section 12, an assessment of not less than Rs. 8 has been paid or would have been paid if the land had not been alienated, or

(*ii*) on the first day of January aforesaid held in his own right or occupied as a tenant in any place in the Bombay Presidency, other than Sind, alienated or unalienated land assessed at or of the assessable value of not less than Rs. 8 land revenue; or

(*b*) on the first day of January aforesaid was the alienee of the right of the Government to the payment of rent or land revenue amounting to not less than Rs. 8, leviable in respect of land so alienated and situate within the Bombay Presidency, or was a khot or a sharer in a khoti village or a sharer in a bhagdari or narvadari village or a talukdar or sharer in a talukdari estate in the said Presidency, responsible for the payment of not less than Rs. 8 land revenue; or

(*c*) was assessed to any tax imposed by a local board (other than a toll or octroi) in the financial year preceding that in which the list is published under section 12.

(2) Unless so disqualified the following persons shall be entitled to have their names entered in the list for a constituency prescribed under section 6 qualifying them to vote at elections of members of district local boards in such constituency, namely :—

every person who on the first day of January next preceding the date on which the list is published under section 12 had a place of residence within the district and who—

(*a*) (*i*) in the case of any constituency in Sind on the first day of January aforesaid held in his own right or occupied as a permanent tenant or as a lessee from the Government alienated or unalienated land in Sind on which, in any one of the five revenue years preceding the date of publicatin of the list under section 12, an assessment of not less than Rs. 16 land revenue in the Upper Sind Frontier district and of not less than Rs. 32 land revenue elsewhere has been paid or would have been paid if the land had not been alienated, or

(*ii*) in the case of any other constituency of the Bombay Presidency on the first day of January aforesaid held in his own right or occupied as a tenant in any place in the Bombay Presidency, other than Sind, alienated or unalienated land assessed at or of the assessable value of not less than Rs. 16 land revenue in the Panch Mahals or Ratnagiri districts and not less than Rs. 32 land revenue elsewhere ; or

(*b*) on the first day of January aforesaid was the alienee of the right of the Government to the payment of rent or land revenue, amounting to not less than Rs. 16 in the Panch Mahals or Ratnagiri or Upper Sind Frontier districts and to not less than Rs. 32 elsewhere, leviable in respect of land so alienated and situated within the Bombay Presidency, or was a khot or a sharer in a khoti village or a sharer in a bhagdari or narvadari village or a talukdar or a sharer in a talukdari estate in the said Presidency, responsible for the payment of not less than Rs. 16 land revenue in the Panch Mahals or Ratnagiri or Upper Sind Frontier districts and not less than Rs. 32 land revenue elsewhere ; or

(*c*) was assessed to any tax imposed by a local board (other than a toll or octroi) in the financial year preceding that in which the list is published under section 12.

(3) Provided that—

(*a*) no person who is not a Mahomedan shall be entered in a list for a Mahomedan constituency ; and

(*b*) no person who is a Mahomedan shall be entered in a list for a general constituency.

(4) For the purposes of this section—

(*a*) a "holder" means a person lawfully in possession of land whether such possession is actual or not ;

(*b*) a "tenant" means a lessee, whether holding under an instrument or under an oral agreement, and includes a mortgagee of a tenant's rights with possession ;

(*c*) where any property is held or occupied or payment is made or received jointly by the members of a joint family, the family shall be adopted as the unit for deciding whether the requisite qualification exists ; and if it does exist, the manager of the family only shall be qualified as an elector in respect of such property or payment ;

(*d*) no person holding or occupying any property or making or receiving any payment in a fiduciary capacity shall be qualified as an elector for any constituency in respect of such property or payment ;

(*e*) the average rate of assessment on assessed land in a village or, if there is no such land in the village, the average rate of assessment on assessed land in the nearest village containing such land shall be taken as the rate for calculating the assessable value of unassessed land in such village ;

(*f*) for the purpose of deciding any claim to be entered in any list in respect of any assessment or payment of land revenue or tax, an entry in any revenue or local board record, stating the amount of such assessment or payment, shall be conclusive proof of the amount of such assessment or payment.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars) : The amendment, Sir, which I wish to put before this House is as follows :—

"That the words 'in the Bombay Presidency, other than Sind', in line 14 of clause 15, sub-clause (1) (*a*) (*ii*) be left out ; to insert instead the words 'within the taluka'."

I only want to bring to the notice of this House the inconvenience that may be found in preparing the list of voters as well as setting the qualifications of the members who would be voters. Secondly, Sir, I think that the person who has got any stake in the district or in the village should only be qualified to give a vote. I am not particularly interested in this question and it does not affect at all my constituency. But as this is a question of principle as well as

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of administrative convenience, I thought I would suggest the amendment as being in accordance with that principle.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I purposely made the clause very elastic, so that people who are occupiers or owners of land even in different districts will be qualified to vote, provided they have a place of residence in a particular district. By this amendment you are restricting the right. I think it is in the interest of all, whether a man has land in one district or another, that he should be able to be on the board. This would be possible as the clause stands now. If you accept the amendment, you restrict the right and I hope this House will reject the amendment.

Sardar V. N. MUTALIK: I beg leave to withdraw the amendment, Sir.

Amendment by leave withdrawn.

Mr. C. M. GANDHI (Surat City): The amendment I move is as follows:-

"In clause 15 (1) (c), line 22, add after the words 'was assessed to' the words 'and has paid'."

Mine is a verbal amendment, Sir, which follows the changes in the District Municipal Act. In the District Municipal Act also the phraseology at one time was "was assessed", and it came to this that, though a man was assessed to pay and did not pay for years together, he was qualified to vote and therefore an amendment was made changing the words "was assessed to pay" to "and to have paid," and I think that it is but proper that merely because a man is assessed to pay he ought not to have the right to vote, because it is payment of the tax and not his being assessed to pay it that should give the right. If that was done in the Municipal Act, I think it ought to find a place in this bill. I therefore hope the Honourable Minister will accept the amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I am entirely in the hands of the House. I have got one difficulty only in accepting the amendment, but I will explain it in my reply.

Rao Bahadur G. K. CHITALE (Ahmednagar District): I must oppose this amendment, Sir, because the difficulty will be to see who has paid and who has not paid and it will be very difficult to have an electoral roll on that basis, unless the electoral roll is prepared by the date prescribed. All that this Act does is, it qualifies a particular person to be a voter, and if payment is insisted upon before voting, it will be difficult. The payment may not be made for a year or even more. I therefore oppose the amendment.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): I also oppose the amendment. If any tax is not paid, we have got other remedies to recover it and we can take any steps which are provided for in this Act or in other Acts for recovery. It is no use having an amendment of this nature and I do not think it should be accepted.

The Honourable Dr. R. P. PARANJPYE: I also would point out that in the case of a famine year or scarcity a large amount of tax is suspended or remitted. In that case, if the elections were to take place in a famine year or in a year just after a famine year, lots of people would be disqualified. I do not think the amendment would be practicable.

Mr. C. M. GANDHI (Surat City): As I find the general sense of the House is against the amendment, I would ask for leave to withdraw it.

Amendment by leave withdrawn.

The Honourable the PRESIDENT: Then as regards Sardar Mutalik's amendment, it has been decided already. As regards Mr. Bhate's amendment, it runs as follows:—

"Add a proviso after sub-clause (1) (*c*) as follows:

'provided in the case of qualification arising under clause (*c*) above the proportion of such payment in the case of the T. L. B. election and the D. L. B. election shall be as prescribed'."

Prescribed by whom and where?

Mr. G. C. BHATE (Kolaba District): By rules.

The Honourable the PRESIDENT: The amendment does not say so. It is badly worded and incomplete, and therefore ineffective. Therefore, I rule it out of order.

Then Mr. Pahalajani wants to add sub-clauses (*e*), (*f*) and (*g*) to clause 15 (1).

Mr. B. G. PAHALAJANI: These are from the old Act, Sir.

The Honourable the PRESIDENT: But there is no sub-clause (*1*) (*d*). There are only (*a*), (*b*) and (*c*), still you say, add (*e*), (*f*) and (*g*). I hope honourable members will be much more careful. It entails a lot of unnecessary labour on me.

Mr. B. G. PAHALAJANI (Western Sind): I drafted the amendments from the proof copy, Sir.

The amendment which I wish to move is as follows:—

"In clause 15 (1) add the following sub-clauses:

'(*d*) Persons residing within the taluka whose annual net earnings from any occupation are estimated to be by the Collector to be not less than Rs. 500;

(*e*) Persons who own immoveable property within the taluka other than a holding prescribed in sub-clause (1) (*a*) estimated by the Collector to be not less than Rs. 1,000;

(*f*) Persons who have passed the vernacular final examination or any higher examination and are residing within the taluka'."

I rise to propose to make these additions in order to make the right of voting more extensive. By the present constitution there is only one class of voters: those who pay 8 or 16 rupees assessment: according to the old Act, there were other qualifications besides those who paid 48 rupees assessment. I have taken (*d*) and (*e*) from the old Act; and (*f*) is a clause which I consider necessary to be added in the interest of well-being of the local boards themselves. As local boards are new, infant institutions, they want people of education, who can be useful.

The Honourable Minister will say that the qualifications given in the bill are the same as those for the Legislative Council. I respectfully demur to that statement, because, after all, in the case of the Legislative Council the election is in the hands of people who belong to the intelligent part of the nation. In case of local boards with the vast multitude of illiterate members, the general tone of a board will be low. Local boards on this enlarged franchise are new institutions which require to be tried. To obliterate all other qualifications altogether and maintain one is too great a jump. Therefore, I have proposed my amendment. The first two are the provisions from the old Act. In the big villages there are people who own small houses, who are carpenters, smiths and carry on other kinds of business. There are shopkeepers and others. They are people who do other work and not agriculture, and they pay taxes in the shape of income-tax, etc. Under these circumstances, I think it is not right to exclude all these people, who form half of the bulk of the population of these villages. The

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additions that I have proposed will give a larger franchise, and bring in more voters, and there will be more interest taken in the working of the local boards. I hope the Council will accept my amendment.

Question proposed :

At the end of sub-clause (*c*) of sub-clause (*1*) of clause 15, add the following :

" or (*d*) persons residing within the taluka whose annual net earnings from any occupation are estimated to be by the Collector to be not less than Rs. 500 ; or

(*e*) persons who own immoveable property within the taluka other than a holding prescribed in sub-clause (*1*) (*a*) estimated by the Collector to be not less than Rs. 1,000 ; or

(*f*) persons who have passed the vernacular final examination or any higher examination and are residing within the taluka. "

The Honourable the PRESIDENT : I am sorry to say that I was misled by the printed notice of amendment, but on referring to the manuscript it seems it is at the end of clause 15, sub-clause (*1*) (*c*) that the addition has to be made. Does the honourable member want this added to sub-clause (*1*) as well as to sub-clause (*2*) of section 15 ?

Mr. B. G. PAHALAJANI : Yes, Sir.

The Honourable the PRESIDENT : Has the honourable member now moved the amendment with regard to sub-clause (*1*) ?

Mr. B. G. PAHALAJANI : It would save time if I moved the amendment for sub-clause (*2*) also.

Mr. C. M. GANDHI (Surat City) : Sir, I am in substantial agreement with the amendment, but I submit that the phraseology of the amendment is not in keeping with the symmetry of the section. If you read section 15, clause (*1*), paragraph two, it is stated there :

" every person who on the first day of January next preceding the date on which the list is published under section 12 had a place of residence within the taluka and who "

So, the residential qualification, as it is stated there, need not be repeated in the succeeding sub-clause. In keeping with the scheme of the section, the proper amendment would be as follows :

" or (*d*) has an annual net earning from any occupation estimated by the Collector at not less than Rs. 500 ;

or (*e*) who owns immoveable property within the taluka other than a holding prescribed in clause (*a*) estimated by the Collector to be not less than Rs 1,000 or, etc. "

I submit that would be in keeping with the previous clauses. But that is a matter within your power or within the discretion of the Legal Remembrancer of Government. As I said, I am in substantial agreement with the amendment.

The Honourable the PRESIDENT : In view of what is said, I think we shall have to change the whole amendment.

Mr. C. M. GANDHI : It involves only a verbal change, so far as the phraseology of the amendment is concerned.

The Honourable the PRESIDENT : Supposing the amendment is kept as it is, would it make any nonsense ?

Mr. C. M. GANDHI : No, Sir. In language it would not be proper. These sub-clauses must be introduced on the lines of the previous clauses.

The Honourable the PRESIDENT: Mr. Pahalajani's amendment is grammatically wrong. It begins 'Every person residing, etc.' That has no sense. The change that will have to be made is only verbal:

"or (*d*) has annual net earnings estimated by the Collector to be not less than Rs. 500; or
(*e*) owns immoveable property within the taluka other than a holding prescribed in sub-clause (1) (*a*) estimated by the Collector to be worth not less than Rs. 1,000; or
(*f*) has passed the vernacular final examination or any higher examination."

Mr. C. M. GANDHI (Surat District): Sir, my reasons for supporting this amendment are these. No doubt the qualification now proposed is very wide enough but in the interests of village economy there are other people like artizans, shopkeepers, money-lenders, and others who have got substantial interest as holding properties in the villages or towns and there is no reason why they should be excluded; people who have been found to be doing good work as electors up till now. It may be urged, Sir, that the qualification of payment of assessment of rupees eight for a taluka local board election or rupees 32 for a district local board election is so low that in practice it may embrace all persons entitled or fit to vote. But if that is so, then there is no reason why we should even by a mere possibility exclude others who have got equally substantial interests. If your object is to include all possible people who have interest in the village economy, it may be that people who have substantial interest in the village economy may own properties worth thousands of rupees or more or whose annual income is more than Rs. 500 but may not be paying assessment and may not be doing agricultural work and may not own lands, there is no reason why they should be excluded and unless and until a very good case is made out, I think, we have no reason to omit the qualification which is found in the previous Act.

As regards (*f*), it is an educational test and it is very necessary in order that these intended district local boards should work successfully that all those who are qualified educationally to come in ought to come in. The clause proposes a very low test and should therefore be accepted as bringing in all people who are educationally qualified to vote. I therefore hope that this amendment will be carried.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Sir, I rise to support this amendment. In fact at the first reading I brought this point to the notice of this House. If the idea is to democratise the constitution of the present district and taluka local boards by broadening the franchise as much as possible, then people who reside in the talukas or in the districts and who have substantial interest in the taluka or the district, as well as in their developments ought to have a vote or ought to be eligible for being members of the district and taluka local boards. If we want to have all sorts of men and not to restrict the local boards to a particular class of men, then I think it is but proper on the part of the House to accept this amendment, and I hope the Honourable Minister in charge will also accept it.

Perhaps it may be urged that these people will be coming in, in spite of other qualifications, but it ought to be pointed out that there are a number of persons who are not landowners but who have got large interests as money-lenders or as traders. If these people are excluded from the local boards—these persons who have got a real interest in the development of the taluka or in the well-being of the people of the taluka—it will not be in the interest of the community at large. It is no use restricting the boards in these days to one or two classes. You must give all people an opportunity to come in at this time when we stand for not any particular class.

Mr. B. V. JADHAV: Sir, I rise to oppose this amendment. It has been pointed out that the new sub-clauses (*d*) and (*e*) are taken bodily from the old Act, that is, those about net earning of Rs. 500 and about holding property worth Rs. 1,000 or more. These persons were qualified to come in and to vote according to the old Act. Persons whose net earnings were not less than Rs. 500 or whose property was valued at more than Rs. 1,000 enjoyed the vote and according to this new bill they are being disenfranchised, and I think for a very good reason.

Under the old Act, Sir, all the money granted to the local boards was handed over to them by the Government and the local boards had only to manage their expenditure. Government therefore gave votes to such persons as they thought fit to exercise the right and they have enjoyed the right up to this time. But that is no reason, Sir, why in the district local boards all these persons should enjoy the right of voting hereafter. Taxation and representation ought to go hand in hand. If they are to be taxed they will have a vote; and if they are not to be taxed, they will not have the vote. If they pay land assessment or local cess or any other cess which brings income to the local boards, then as a matter of right they will enjoy the vote. Now, the claim that is made, namely that a person irrespective of his paying anything to the taluka or district local board should enjoy the vote simply because his income is estimated at Rs. 500, is, I think, an anomaly and this House cannot countenance it in any way.

Sir, it is stated then that there are money-lenders whose income is more than Rs. 500 and it shocks some of the honourable members here to see that they do not enjoy the vote. Sir, I have seen many of such money-lenders and they do pay land assessment and also the local fund cess. But there are some who have no permanent interest in the locality and their exactions are very usurious. They are mere parasites and are sucking the blood of the poor agriculturists. If they do not possess any land and they do not pay revenue to Government or any cess to the local board, then I think they can make no claim to a vote to the district local board.

Then, it is said that there are certain artisans who are doing good work to the village community and therefore they ought to enjoy the vote. I do not see any reason for this. If they are paying cess to the local boards, then as a matter of right, they will enjoy the vote, but the vote should not be given to them simply because they are men of consequence. Previously when Government paid, as I said just now, the whole sum from their treasuries to local boards, it was all right for Government to say who should administer those funds. But now, when these local boards are to be constituted on more independent basis the principle of taxation and representation should be followed and those who do not pay any tax ought not to be allowed to give a vote to influence the administration of the local boards.

Then it is urged that persons who are literate, that is, those who have passed the vernacular final examination should have the vote. If they are paying some revenue to the local boards, then of course they will enjoy the vote and not otherwise. Simply because a person is literate or has passed a certain vernacular examination or any other examination, that ought not to be deemed a sufficient cause to give him a vote. I therefore oppose this amendment.

Mr. M. A. HAVELIVALA: Sir, I move a closure.

Rao Bahadur G. K. CHITALE: Sir, this is rather a very important clause and a closure should not be given now.

Mr. M. A. HAVELIVALA: It is not for you to decide; it is for the President.

The Honourable the PRESIDENT: Order, order. I allow the Rao Bahadur to address the House.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Mr. President, I accept the canon laid down by the honourable nominated member from Satara that taxation and representation should go together. Now, may I point out to him that unless these local boards are formed no taxation can be put on and therefore unless that taxation is paid the members won't come in. You will therefore find what mischief you do. Take an ordinary village in a district. Suppose a shop-tax or house-tax is intended to be levied; when that is actually levied the persons paying that tax, according to the canon put before us, will have the vote; but until that tax is put, so far they won't come in.

Suppose a village consists of 100 to 200 houses. There may be some ten or twenty persons whose income may be Rs. 500 or more a yeer but who may not be paying any cess and they will not have the vote. But the people who get representation on the board, the agriculturists paying the one anna cess, will have the power of taxing the people whom you now exclude. Is it logical to say to them: "Until you are taxed you have no right to sit on the board?" If there is any provision in the Act whereby these people will be taxed first and they escape taxation, then it will be logical to deny them the vote. But as far as I have been able to give my attention to this Act and the framing of it, I must say—and the Honourable Minister will admit this—that unless the tax is put these people will not be represented. Therefore the amendment is not out of order.

Then the honourable nominated member from Satara said that it is no use giving the right of voting to the sowcars, whom he described as persons sucking the blood of the people. Well, I do not know what I ought to say, but there are sowcars and sowcars and I know a number of them. These sowcars render good help to the ordinary agriculturists when Government are helpless. They supply them with seed when it is absolutely necessary. You will find that lakhs and lakhs are given to the agriculturists when Government are helpless and unable to supply their needs. Is that service not a public service which ought to be appreciated? These people also might be taxed by the local boards, and it is not fair to leave them unrepresented simply because they do not happen to pay any tax at present.

Then it is asked what is the use of giving the vote to literate people? Sir, we want primary education to spread as fast as possible; therefore we want to put a premium on primary education. If you say that those people who pass a certain test will have the vote irrespective of their paying any cess or not, that will be an impetus to the general countryside people who have got no land and no house to take to primary education. In these circumstances, Sir, I feel bound to support the amendment.

The THAKOR of AMOD: Sir, I rise to oppose the amendment, and that too on good grounds. The honourable member from Nagar must remember that there is a famine in his district every second year, but that is not the case in Gujarat, and so I think the situation is quite different in Gujarat from what may be existing in the Deccan. We have lately done away with the inamdars' constituency on the ground that they can easily come in as members of the district local board by the votes of their tenants. In the same way these sowcars

[The Thakor of Amod]

can get in, because in Gujarat almost all sowcars possess either Government land or inam lands. Now, if the sowcars who pay no local cess want themselves to be qualified as voters or want themselves to be qualified to be members in the boards, there are only two alternatives. They should either pay local cess on their income or the Government should pay a share from the income-tax they take to the board. With these words I oppose the amendment.

Rao Saheb D. P. DESAI (Kaira District): Sir, I support the amendment. I appreciate at the same time the intention of the Honourable Minister to reserve rural areas for rural people, but he forgets that the great difficulty in the way of development of rural areas is want of attraction in those areas. It is privileges and rights and such other matters that might encourage the well-to-do and educated people to take to rural occupations and stick to rural areas, but if you withhold these rights you actually help the migration to cities of persons helpful to these areas, so some encouragement should be given to persons and this amendment as proposed by the honourable member for Sukkur will go some way in giving that encouragement. We should make rural areas more attractive so that educated people will go and settle in those areas as the want of attraction is at present the chief cause why those areas are so backward. If they are given some political right to sit in the district council as the district local board will eventually be, then, I should think people will take readily to rural occupations. I can assure the honourable nominated member from Satara, Mr. Jadhav, that he need not be afraid of the sowcars, whether they be here or in rural areas or anywhere else. Sowcars have played a prominent part in the rural economy for such a very long time and period that their absence in the present days owing to abuses rightly or wrongly levelled at them has immensely deteriorated and set back rural areas with the result that the national output of wealth is much reduced. The land does require money as all occupations require money. You cannot on a starving land and at the same time probably starving yourself take out a handsome produce from land, and if you induce sowcars to settle in these areas and thus introduce the old system again in every village the competition amongst these sowcars will bring down interest rates.....

The Honourable the PRESIDENT: Order, order. We are going into a long discussion about sowcars. Probably the honourable member is replying to arguments that taxation should go with representation.

Rao Saheb D. P. DESAI: Yes, Sir. These are the days of indirect taxpayers. According to that statement I should think there is no reason why we should not accept the honourable member for Sukkur, Mr. Pahalajani's amendment and, as the honourable member from Ahmednagar said, there ought to be some premium placed on such persons for the sake of rural areas, and I should think these persons may be given the franchise. With these words I support the amendment.

Major-General W. E. JENNINGS: I move a closure, Sir.

The Honourable the PRESIDENT: I accept the closure.

Mr. B. G. PAHALAJANI (Western Sind): Sir, I must confess I am rather surprised at the opposition in this matter. I see strong opposition from the honourable nominated member from Satara and from the honourable member from Broach. I want to make my position clear, and that is that my amendment does not propose to take away the extensive franchise already given by

[Mr. B. G. Pahalajani]

the provisions of section 13. The old section gave franchise to men who paid Rs. 48 assessment, that is to say, the number of enfranchised people is now increased by 500 per cent. What I claim and what I request the Council to accept is to let this large number exist, let full representation be given to those to whom it has not been given before, but in giving representation to the cultivator class, for whom we have been all the time advocating primary education, whose ignorance has been acknowledged all along, let us see whether the addition of these clauses is not necessary to enfranchise another class also or, in other words, to give the franchise that has already been given to some of the members of some of the population in addition to the present enlarged franchise. I think if primary education is to be a reality and if the proposal of my honourable friend the Minister of Education to form school boards is to be successful, as he wants men of experience to be placed not only on district local boards but on municipalities also, my amendment should receive the support of the council. Now, if the scope of the present Local Boards and the Primary Education Acts is enlarged and will have the effect of giving more education to the masses, it is due to those masses that there should be people who would be able to guide them in their deliberations. It is for that that the people of experience, of some education, not the illiterate people but people with some education, at least those who have studied or passed up to the vernacular final examination, should be given the opportunity of voting and therefore of being members. If they have no vote, they cannot be members. All that I ask is that the Council should give them a right to vote, or in other words, to give them a chance of standing for election if they choose.

Now, as regards the other classes, the property classes, every village is divided into two or three sections of people: One, the purely agricultural class, paying an assessment of from eight rupees and over to any amount and the other the artisan class, and the class who are owners of landed property or houses or shop-keepers. Now, I may inform the members of this Council that the Village Panchayat Act will take away a considerable portion of the cesses of the village. According to this Act people paying income tax are not entitled to come to vote or stand for the local board. Therefore, the result will be that in a village only half the population will be represented. That is to say, the agricultural classes will be represented, and the other half who do not happen to have any land or who are serving,—the educated classes,—will have no vote, no representation. Is it fair, I say, Sir, that by this partial representation only half the people should be represented? Is there any reason why the landed classes, who own houses valued up to Rs. 1,000 or up to Rs. 500 in a village should not have the same representation as the cultivator classes? Is it, Sir, necessary to deprive all those interests of this right simply because they have not the fortune or the misfortune of owning lands, in spite of their education, in spite of their past services, in spite of their present and future services? Because, in spite of all that my honourable and learned friend from Satara and the Honourable Minister in charge has said the landed classes must exist, the propertied class must exist. No amount of legislation or anything else will extirpate the sowcar or the landholder or the house-owner or the working-class. As long as they are there, they form an integral part of the social economy of the nation. By one stroke of the pen you are taking away all the qualifications except one, and that is the landholding class. I put it to you, Sir, whether in the rural areas the landholding classes are not entitled to say that their educated children should have part in the adminis-

[Mr. B. G. Pahalajani]

tration of the rural areas ? Are they not entitled to expect, Sir, that they should give over their work to their children ? And as long as they live, Hindus or Mahomedans, in joint families the juniors of the family, however qualified, shall have no vote : A man residing in the rural area, simply because he is the father and has land in his own name, will be compelled to deprive his sons of votes. Is that right ? Therefore, I say, Sir, people who are educated, people who work, people who are graduates, or people who have some interest in the village or people who do some kind of work ought to have representation. It is only a fair demand and I do not wish to curtail any rights, Sir. My attempt is not to curtail the right given by the Honourable Minister in charge, but I say it is to expand the right of voting. The request is reasonable and I think the House will comply with it.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : No doubt, Sir, the propertied classes have not the right to enter unless they pay the taxes. But I have not provided this right of vote, Sir, because those people enjoy all the amenities out of the district local fund and contribute nothing to it. Now this amendment has been brought to give them the vote, Sir ; but the whole principle underlying the bill is no representation without taxation. Now, people who in their own right, as owners or as occupiers, pay an assessment of not less than Rs. 16 in certain districts and not less than Rs. 32 in others have a right to vote. They become members of the district local board, because they pay for it. Not only that, Sir, but clause (*c*) is very clear. It says :

"was assessed to any tax imposed by a local board ....." etc.

Under that, every other taxpayer will be able to come in. The result of this amendment will be that we will be giving votes to people without their paying any taxes. In no country, Sir, is representation given without taxation....

Mr. C. M. GANDHI (Surat City) : Universities are given representation without paying anything.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I am coming to them shortly. A man who wishes to enter the local board may keep a house worth Rs. 1,000 simply for the purpose of coming on the local board so that....

Mr. C. M. GANDHI : The Honourable Minister forgets that there is a similar provision in the existing Act.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I am not forgetting it. Small householders may have houses worth Rs. 1,000 without paying any taxes. These very people will become voters by paying taxes, as in the schedule of taxes there is professional tax, house tax and every other tax. But the new logic that I learn to-day from the honourable member from Ahmednagar, that it is first their right to vote and then their duty to pay taxes, is not acceptable to me. First the taxes, and then the vote, Sir. The very fact that they have come in on the local boards without paying taxes will result in this, that they will never allow all the taxes mentioned in schedule II.

Rao Bahadur G. K. CHITALE : What I pointed out, Sir, was this, that district local boards are meant for people who pay taxation.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Nowhere in the world is representation first and taxation afterwards. First

[Khan Bahadur Shaikh Ghulam Hussain]

the taxes and then the right of representation comes. So I submit, Sir, that this is the way of simply trying to give a vote to those people who have no interest in the local boards and who pay no taxes. Again, Sir, a man owning a house of Rs. 500 or Rs. 1,000 may be any one at all. How can you say he is necessarily an intelligent man or a good man or an honest man? A man owning a house of Rs. 500 or Rs. 1,000 in a village may be even a thief or an offender. I hope this Council will throw out this amendment, because the main principle of the bill is no representation without taxation.

Mr. B. G. PAHALAJANI (Western Sind): May I make a request, Sir, that each clause of the amendment be put separately?

The Honourable the PRESIDENT: Yes; if the House wants that, I will do so.

Question put that at the end of sub-clause (1) of clause 15 after sub-clause (*c*) add the following words :—

"or '(*d*) has annual net earnings estimated by the Collector to be not less than Rs. 500'."

and negatived.

The Honourable the PRESIDENT: Now (*e*) becomes (*d*).

Question put that at the end of sub-clause (1) of clause 15 after sub-clause (*c*) add the following words :—

"or '(*d*) owns immoveable property within the taluka other than a holding prescribed in sub-clause (1) (*a*) estimated by the Collector to be not less than Rs. 1,000'."

and negatived.

The Honourable the PRESIDENT: Then (*f*) now becomes (*d*).

Question put that—

"At the end of clause 15 (1) (*c*) add the following :—

"or '(*d*) has passed the vernacular final examination or any higher examination and is residing within the taluka'."

and negatived.

The Honourable the PRESIDENT: Then that decides the fate of the addition of those words at the end of clause 15 (1) (*c*).

Then, Mr. Bhate's amendment to sub-clause (1) (*c*) is out of order on the ground of the decision arrived at yesterday on the question of communal representation. His other amendment to change (4) to (3) also falls to the ground.

Rao Bahadur Vichare is not here and even if he had been, I should have ruled his amendment out of order as being unnecessary. He wants to bring in any member of a joint family who is appointed manager. The word 'manager' in a joint family means both the natural manager and also any one who is appointed *de facto* as such by the joint family.

Clause ordered to stand part of the bill.

Clause 16 (*General disqualification of voters*) ordered to stand part of the bill.

Clause 17 (*Elections when to be held*) ordered to stand part of the bill.

Clause 18 (*Provisions for election or nomination in particular cases*) ordered to stand part of the bill.

Clause 19 (*Determination of validity of elections: enquiry by judge: procedure*) ordered to stand part of the bill.

Clause 20 (*Voter disqualified for corrupt practice*) ordered to stand part of the bill.

Clause 21 (*Publication of names of members in the Bombay Government Gazette*) ordered to stand part of the bill.

Clause 22 (*Election of presidents and vice-presidents*).

(1) Every local board shall be presided over by a president, elected by the board from among its own members.

(2) The board shall also elect one of its members to be vice-president.

Presidents and vice-presidents not to be salaried servants of the Government.

(3) A salaried servant of the Government shall not be elected president or vice-president of a local board and the election of any such servant as such shall be void.

Rao Saheb D. P. DESAI (Kaira District): Mr. President, the amendment that I wish to move is as follows:

"Add the following proviso at the end of sub-clause (2) of clause 22:

'provided that no person shall be elected president or vice-president of more than one local board in the district'."

The bill, as it is, allows one man to be an office bearer of more than one local board. It does not prevent a person from becoming a president or vice-president of as many boards as he likes even though their interests are conflicting. This in my view should not be allowed. It will prevent smooth working of the boards.

As the bill gives these boards wider functions, perhaps a whole-time president will be required to carry out its various provisions, and therefore if one man is allowed to preside over more than one local board, then it would impair the efficiency of the boards. Again, sir, suppose the president of a taluka local board is a president of a district local board, and works in both the capacities. Then, what does he do? He has to sit in judgment on his own accounts. He is called upon to decide and to audit the accounts submitted by himself. The question is whether such a course would be fair—whether it is advisable that the president of a taluka local board should be allowed to work as the vice-president or president of a district local board at the same time. In my opinion, it would be better if the functions are divided, and I think that taluka board presidents should not be allowed to work as district board presidents. Again, sir, there are so many questions coming up for decision, such as the question of grants. If a taluka board president is an office bearer in a district board, he may unconsciously give his taluka more latitude. He may also allow the accounts of his taluka to be kept in a very clumsy manner. Now, there is, with respect to this matter, the example of the Revenue Department. They do not allow the mamlatdar to be the Collector at the same time, nor can a person be the Collector and the Commissioner at the same time. If the clause is allowed to stand as it is, it may happen that an influential man may monopolise so many functions, and he may do either good or bad.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Is he to be nominated or elected?

Rao Saheb D. P. DESAI: I have not touched the point whether he is to be elected or nominated. The best course would be to restrict one person to one local board. So far as pure membership is concerned, I have no objection to one man being a member of different local boards, but where office work is concerned, I think there should be one office bearer for one local board. I hope that the Council will, therefore, accept my amendment.

Mr. C. M. GANDHI (Surat City): Sir, this amendment must be considered in this light. No doubt a man who is returned as president of the taluka local board should also have the opportunity of being returned as president or vice-president of the district local board. But a man as soon as he becomes the president or vice-president of the district board, should vacate his office on the taluka board. What happens is this: In matters where taluka boards are subject to the sanction of the district local board, when such matters come before the district local board, if the president of the district local board should be absent the vice-president acts in his place and if he should happen to be also the president of the taluka board, then as my honourable friend says, there is a likelihood of his favouring the interests of his taluka. In the absence of the president he decides all matters that come before the district local board, and here the president of the taluka board as vice-president of the district local board disposes of cases. This is a matter which will have to be scrutinised. I am doubtful whether the amendment as proposed will effectuate the purpose which I have in view. In this case as in the case of a municipal election where a person, if elected by two wards, is asked to choose between the two, the person so elected must be asked to choose between the two.

The Honourable the PRESIDENT: Is the honourable member against the amendment?

Mr. C. M. GANDHI: I am for the amendment, but.....

The Honourable the PRESIDENT: We must take the amendment as it is without interruptions.

Mr. C. M. GANDHI: I am pointing out the consideration that will arise on it. If I have the permission of the Honourable Minister in charge of the bill and the Legal Remembrancer of Government, I shall move an amendment.

The Honourable the PRESIDENT: The Council is adjourned till 2 p.m. on Monday, the 11th December 1922.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

*Monday, the 11th December 1922.*

The Council re-assembled at the Town Hall, Bombay, on Monday, the 11th December 1922, at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BELL, Mr. R. D.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CADELL, Mr. P. R.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
CLAYTON, Mr. F.
COCKE, Mr. H. G.
CRERAR, Mr. J.
DABHOLKAR, Mr. VASANTRAO ANANDRAO
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DRAKHAN, WADERO MAHOMED PANAH
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GODBOLE, Dewan Bahadur K. R.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HATCH, Mr. G. W.

Havelivala, Mr. M. A.
Hayward, The Hon'ble Mr. M. H. W.
Hepper, Sir Lawless
Hulkoti, Mr. Channappa Chanvirappa
Jadhav, Mr. B. V.
Jennings, Major General W. E.
Kalbhor, Mr. G. M.
Kale, Rao Bahadur R. R.
Kambli, Mr. S. T.
Lalbhai Ambaram, Mr.
Lalji Naranji, Mr.
Lawrence, The Hon'ble Mr. H. S.
Ligade, Mr. S. P.
Lory, Mr. F. B. P.
Mansuri, Khan Saheb A. M.
Mead, Mr. P. J.
Mehta, The Hon'ble Mr. C. V.
Mohomed Salahuddin K., Mr.
Motiram, Rao Saheb Rupchand
Murphy, Mr. S. J.
Mutalik, Sardar V. N.
Nelson, Mr. F.
Nilkanth, Rao Bahadur R. M.
Pahalajani, Mr. B. G.
Paranjpye, The Hon'ble Dr. R. P.
Patel, Mr. B. P.
Patel, Mr. J. B.
Pawar, Shrimant J. A.
Pradhan, Mr. M. W.
Proes, Mr. E. M.
Rahimtoola, The Hon'ble Sir Ibrahim
Rothfeld, Mr. O.
Saherwala, Khan Saheb I. A.
Salgar, Mr. R. G.
Setalvad, The Hon'ble Sir Chimanlal
Shirras, Mr. G. Findlay
Sindore, Mr. H. N.
Surve, Mr. A. N.
Thakor of Amod, Sardar Naharsinghji
Thomas, Mr. G. A.
Trivedi, Mr. G. B.
Woods, Mr. E. E.

## LOCAL BOARDS BILL (BILL No. XVI OF 1922)

(Consideration of Clauses resumed.)

The Honourable the PRESIDENT: Order, order.

Question again proposed that in sub-clause (2) of clause 22, add at the end the words: "provided that no person shall be elected president or vice-president of more than one local board in the district."

Mr. IBRAHIM S. HAJI: Sir, will you permit me to ask one important question to Government?

The Honourable the PRESIDENT: The honourable member ought to have asked that before I proposed the question.

Mr. IBRAHIM S. HAJI: I rose, but could not catch your eye, Sir.

The Honourable the PRESIDENT: Once I have proposed the question, I cannot allow any interruption.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, I am in agreement with the amendment and the arguments advanced by the honourable mover. It is not right that the president of a taluka local board should be the president of a district local board. If so, he will sit in judgment over his own acts with all his prejudices. I think therefore that this amendment should be passed by this Council. But at the same time he should have the option to go to the higher office if he resigns the lower. With these words I beg to support the amendment.

Rao Saheb D. P. DESAI (Kaira District): Sir, I have very little to say in reply over and above what I said in moving the amendment, but I shall reply to the arguments of my honourable friend to my right (Mr. Gandhi). While supporting the amendment he incidentally remarked that the wording of the amendment was such that the president of a taluka local board, if he wants to compete for the presidentship of the district local board will not be able to do so, and this should be allowed to him. In reply I say, Sir, that the rule-making powers of Government are quite exhaustive in this respect and they can arrange the dates in such a way that the elections of the office-bearers of the taluka board and of the district board will not conflict. Even under the practice at present prevailing office-bearers of the taluka boards and of the district boards are not elected at the same time. Some interval is left between the two elections. So that, the difficulty mentioned by my honourable friend from Surat is not a very serious one, and one which cannot be remedied. Perhaps the Honourable Minister will advance an argument that members who are elected to such responsible posts can be confided in to discharge the two duties without any prejudice or partiality. Here I will meet him with his own argument. If he is not prepared to entrust the members of a district or taluka board with the hiring of a light or a few chairs for some entertainment purpose—if he is suspicious to this extent in such a matter—he should be rather more suspicious in a matter of greater responsibility like this.

The second point is: all along the principle has been to give the widest possible opportunity to as many persons in the district to gain experience of the executive work of local boards, but if the Honourable Minister allows such provisions to remain in the bill that principle would be lost, because a few persons may monopolise many offices in a district. So to guard against inefficiency and monopoly the amendment proposed by me appears to be necessary.

With these remarks, Sir, I move the amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, my first objection to the amendment is that as it stands no person shall be president or vice-president of more than one local board in the district. Suppose a man is elected vice-president of a taluka board. This Council knows that a vice-president has very little work to do. That means if the amendment is accepted and he is elected vice-president of a taluka local board, he cannot aspire higher and seek another election to become the vice-president or the president of a district local board. Is that fair? Why should Government restrict the right? You will be simply restricting the freedom of the local boards. Suppose a man is a vice-president and there is a president, he is only a nominal office-bearer of the taluka local board; he cannot aspire to be elected the president or the vice-president of the district local board. Again what are the conditions in the district local boards? We have elected presidents and vice-presidents in taluka and district local boards. Is it not fair to leave it to the members to elect them? If the members are fit to exercise their rights properly, then I do not think it is necessary to accept the amendment at all. Why should we interfere with their freedom? In this House the cry has been that Government tries to interfere with the liberty of local boards and tries to restrict the freedom of local bodies. Here Government gives them freedom to elect anyone they like. I think by accepting the amendment you will be interfering with the internal autonomy of the local bodies. Suppose a man is quite fit to be elected vice-president of a taluka local board and president of a district local board, I do not know why we should interfere. Why should we not leave it to the good sense of the members? Had there been nominated presidents and vice-presidents, then the question would have been different. Now it is left to the good sense of the members. They know their local conditions and interests much better than others. I shall give you an analogy. There are honourable members in this Council who are also the presidents of local boards and vice-presidents of municipalities. Not only have they their duty as office bearers of the local bodies but also their duty as members of the Council. In local boards the members have to elect their own office-bearers, I think we must leave it to the good sense of the members to elect anyone that they like. When they find that one man as a president of a district local board and of a taluka local board is not able to cope with the duties of both the offices, I am sure they will not elect such a man to both the offices at the same time. I think if we accept this amendment we shall be only restricting the freedom of the local bodies.

Amendment negatived.

The Honourable the PRESIDENT: The next amendment is in the name of the honourable member for Sukkur, Mr. Pahalajani, who proposes that after the word "Government" in the expression "a salaried servant of the Government" in sub-clause (3) of clause 22, the following words be added, namely, "which includes a public prosecutor". I rule that out of order for the reason that the House has already decided what the definition of a salaried servant of Government shall be in clause 3. The words "salaried servant of Government" do not include a retired servant of Government in receipt of a pension. The House having already decided that, and as the proper place for an amendment like this was the definition clause—clause 3—it is quite out of place here. This clause is not a definition clause at all. I therefore rule the amendment out of order.

Clause ordered to stand part of the bill.

Clause 23 (*Functions of Presidents*).

(1) The president of a local board shall—

(*a*) preside at the meetings of the board;

(*b*) watch over the financial and executive administration of the board and submit to the board all questions connected therewith which shall appear to him to require its orders;

(*c*) exercise supervision and control over the acts and proceedings of all officers and servants of the board in matters of executive administration, and in matters concerning the accounts and records of the board; and, subject to the regulations at the time being in force framed by the board under section 123, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances; and

(*d*) furnish to the Collector or to such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at every meeting of the board and any extract from the minutes of the proceedings of the board, or other document or thing which the Commissioner, Collector or other duly authorized officer of the Government, may from time to time call for under section 124.

(2) The president of a local board may in cases of emergency direct the execution or stoppage of any work or the doing of any act which requires the sanction of the local board, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the local fund:

Provided that

(*a*) he shall not act under this section in contravention of any order of the local board prohibiting the execution of any particular work or the doing of any particular act, and

(*b*) he shall report forthwith the action taken under this section and the reasons therefor to the standing committee at its next meeting.

The Honourable the PRESIDENT: The first notice of amendment is by the honourable member for Deccan Sardars and Inamdars, Sardar Mutalik, who proposes that the words "shall appear to him to" in sub-clause (1) (*b*), line 4, be left out. I rule that out of order upon the ground that the amendment is, not reasonably complete, because supposing those words "shall appear to him" are taken out, then the clause will stand bald. Some authority must decide what are the questions which require those orders, and what are the questions which do not require those orders. As long as that is left ambiguous (and it will be left ambiguous by the amendment) the amendment is out of order as being ineffective and meaningless.

Clause ordered to stand part of the bill.

Clause 24 (*Functions of vice-presidents*) ordered to stand part of the bill.

Clause 25 (*Consequence of absence of president or vice-president without leave*) ordered to stand part of the bill.

Clause 26 (*Term of office of president and vice-president and their liability to be removed*).

(1) The term of office of every president or vice-president shall cease on the expiry of his term of office as a member of the local board over which he presides: provided that he shall be removable from office, as such president or vice-president, by the Government for misconduct, or neglect of or incapacity to perform his duty.

Casual vacancies in their office how to be filled up.

(2) In the event of the death, resignation, or removal from office of a president or vice-president, or of his becoming incapable of acting, or ceasing to be a member of the local board, previous to the expiry of his term of office, the vacancy shall be filled up as soon as conveniently may be by the election of some other member of the board thereto.

Inability of president or vice-president to call a meeting.

(3) Where the president and vice-president are unable or for any reason fail to call a meeting for the purpose of an election under sub-section (2), the Collector may exercise the powers of the president for the purpose of calling such meeting.

The Honourable the PRESIDENT: There are two notices of amendments here, one by the hon'ble member Sardar Mutalik and the other by the hon'ble member for Bombay City, North, Mr. Surve. They touch the same question with a difference; although in some part the language is different, still the purport is the same, but the only difference is that Sardar Mutalik says "with

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the sanction of Government", Mr. Surve does not require the sanction of Government. Therefore the procedure will be this that Sardar Mutalik will propose his amendment and Mr. Surve will afterwards propose an amendment to that amendment to leave out the words " with the sanction of Government ". In other respects both the amendments are to the same effect.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars) : Sir, I move that

" In sub-clause (1) of clause 26, line 3, after the words ' by the Government ' add ' or with the sanction of Government by the board by a vote passed by three-fourths the number of all members of the board.' "

My view in this respect is that now that all presidents of local boards are to be elected by the boards themselves.....

The Honourable the PRESIDENT : Why does the honourable member use the word " all " ? It is unnecessary ; and superfluous words should not be inserted in an enactment.

Sardar V. N. MUTALIK : The question is one of principle and the principle is quite simple, *viz.*, whether the board which elects the president should have the power to remove him, or not, in case the board finds that the president is not executing its orders or is not doing all that it wants him to do or expects him to do. It is a constitutional question also, Sir, that when the president has lost the confidence of the House, he ought to resign his seat and if he adheres to his seat, ought to be removed. In this bill there is no provision made for the board to remove the president.

The Honourable the PRESIDENT : May I ask the Honourable the Home Member whether he would object to the word " all " in the amendment being dropped ? The amendment reads : " or with the sanction of Government by the board by a vote passed by three-fourths the number of all the members of the board ".

Major-General W. E. Jennings here made an observation which was inaudible.

The Honourable Mr. M. H. W. HAYWARD : I think, Sir, it can be dropped. I do not think it is necessary.

Sardar V. N. MUTALIK : Thank you, Sir. The word should be dropped. We see, Sir, that the members will be elected from rural areas without any educational qualifications and they will elect a president from amongst them and sometimes it will be found for various reasons that the board may have made a wrong choice. The board may repent of it later, but they will not have any power. Under those circumstances also, the board should have the power to remove him. I know, Sir, that there are a number of honourable members in this House who are presidents or candidates for the post, and they need not be afraid of this provision, as there would be no occasion to remove such sorts of men. If members of the board were like members of this House, there would be no question about a president being removed. But there may be a contingency where persons of lower calibre are chosen and persons without any qualifications may be coming up as presidents, and I think the members of the board would be better able to pass a judgment on such questions. Sometimes it so happens that certain things go on, and are observed by and known to the members of the board, which do not reach the ears of the officers concerned or the officers of Government whose duty it may be to control such things and report thereon. The local board members may know all the ins and outs of

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the matter. The persons who can know and find out all those things would be the members of the board. Under these circumstances, I commend the amendment to the acceptance of this House.

The Honourable the PRESIDENT: Will the honourable member from Bombay (Mr. Surve) now move his amendment? He need merely propose that the words "with the sanction of Government" be left out from the amendment. He may say: I beg to move an amendment to the amendment, namely,

"that the words 'with the sanction of Government' be left out."

Mr. A. N. SURVE (Bombay City, North): Sir, the first amendment moved by the honourable member representing the inamdars requires that the sanction of Government should be obtained. The amendment to that amendment which I am now proposing in the form you, Sir, just suggested, does away with the recommendation that the sanction of the Government should be obtained. The power of electing a president has been given to local boards.

The Honourable the PRESIDENT: The honourable member is entitled to speak not only on his own amendment, but even upon the amendment of Sardar Mutalik.

Mr. A. N. SURVE: As the power to elect the president is given to the local board, it follows as a corollary that the power of removal must also be given and it should not be necessary for the board to obtain the sanction of Government. Suppose the members pass a resolution by an overwhelming majority that their president be removed and Government refuse to give their sanction, then a deadlock would be created which is not desirable. The president is an executive officer; therefore he must command the confidence of the members. If they have lost confidence in him, they will not support his measures and the work of the board will be at a standstill. The power of election granted to the board is a democratic power, and it is against the principle of democracy to go to Government for its sanction. Moreover, Government itself has no desire to interfere with the internal autonomy of the boards. With these words I commend my amendment to the House.

The Honourable the PRESIDENT: Now, both the amendments may be discussed together, because they bear upon the same question and hang together.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Mr. President, I am sorry I must oppose the amendment. There are considerable cases in the present days of democracy when this power against the president might be abused. I would just give an instance. A popular member of the public may in the opinion of the local body be deserving of an address. In this democratic age it is just possible that the president may not agree with that view. The three-fourths majority of the elected members might take an opposite view altogether, and simply because the president thinks it his duty to go against the wishes of that majority in such trifling matters, as sometimes we find cases, they might vote for the removal of the president. Now, may I ask whether the president should be exposed to that contingency? On the other hand, I think there is a safeguard in the Act itself. Any misconduct on the part of a president is taken notice of by Government, as you find perhaps the misconduct in the case of the Nadiad municipality. The Government,

[Rao Bahadur G. K. Chitale]

which is a ponderous machine, takes too long to think, and when it is absolutely convinced of the case, it goes to the extreme length of removing the president. As you can see, Sir, in practice if a case like the one I mentioned were to come up, if the amendment were introduced into the present clause, it would be a perfect hardship which ought to be avoided.

Mr. C. M. GANDHI (Surat City): The amendment as it stands, I am afraid, I shall not be able to support. But I do think, Sir, that with a little transposition of the words the object the honourable member for the Sardras wants to carry out could be carried out. As the amendment stands, he wants to interpose the words, between 'Government' and 'perform his duty'. That means that the vote of the board can also remove the president, if he is found guilty of misconduct, or neglect, or incapacity; not when circumstances may arise when he has lost the confidence of the board and may not be able to carry the board at all with him. I will give you an instance. In a particular municipality, of which the Honourable Minister is aware, the members were equally divided, or, to put it more accurately, the president had a majority of one. When the president attended, all the other members managed to clear away, and no quorum could be had; when the president did not turn up, they finished the business. What is to be done in a case like this? I think, even in the democratic regime which my honourable friend from Ahmednagar has tried to depict, we ought to have a power vested in the local board to get rid of a president who, out of mere love of power, sticks to his office when he is not able to carry the board with him. In these democratic days, if they are going to be really democratic, a power should be given to the district local board to remove a president who has thoroughly lost the confidence of the board, and is not able to carry it along with him. But I would not give that power to the board alone, for that might be abused in a case like the one of which an instance was given by the honourable member from Ahmednagar. If that power could only be exercised with the sanction of Government, I do not think there is any danger of its being abused. I would therefore like the permission of the Honourable Minister to allow me to move an amendment.

The Honourable the PRESIDENT: It is not in order to move an amendment to an amendment to an amendment.

Mr. C. M. GANDHI: In that case, I would suggest to him that.....

The Honourable the PRESIDENT: Let us first of all get rid of Mr. Surve's amendment to the amendment. If it is lost, and the words 'with the sanction of Government' are retained, then it will be possible to move an amendment to that amendment.

Mr. C. M. GANDHI: Thank you, Sir, for your suggestion.

The Honourable the PRESIDENT: I have already said that honourable members may speak on both amendments; and as the honourable member for Surat has already spoken, he may have no right to speak again in moving his amendment. The proper course for me would be therefore at this stage to say that the speech so far made may be regarded as being confined to Mr. Surve's amendment. Afterwards I shall leave the original amendment again open for discussion, and the honourable member may speak to that amendment and move his. But for that I must now rule that the discussion will be henceforth confined only to Mr. Surve's amendment as to the retention of the words 'with the sanction of Government'.

Mr. C. M. GANDHI : I therefore submit that if this power of removing a president who has lost the confidence of the board be allowed to be exercised only with the sanction of Government, there will be no harm done, and I hope the Honourable Minister will accept my suggestion.

Rao Saheb D. P. DESAI (Kaira District) : Mr. President, I support the amendment of Mr. Surve. The whole question is rather a constitutional one. The local boards are performing their duties entrusted to them on behalf of Government. Government, by this bill, give certain duties and powers to the people in certain areas. Under this bill, the Government have further extended to the local boards the power of electing their own presidents. At the same time, Government have not changed the original wording, and the meaning or inference is that the president, though elected by the local board, should be responsible to Government, just as we have Ministers responsible to us Of course, that is the meaning. I should think that since the local boards have been given the power of electing their presidents, they should also have the power of getting rid of him when he loses the confidence of the board. When the board do not want him to be their president, why should he not resign ? But the original amendment of Sardar Mutalik.....

The Honourable the PRESIDENT : The honourable member must confine himself to Mr. Surve's amendment. He has not spoken on Sardar Mutalik's amendment. No one has spoken on that, and the honourable member will have his chance of speaking on that. As there is going to be another amendment, I have to adopt this procedure.

Rao Saheb D. P. DESAI : By deleting the words 'with the sanction of Government'.....

The Honourable the PRESIDENT : That is repetition. Has the honourable member anything more to say ?

Rao Saheb D. P. DESAI : No, Sir. With these remarks, I support Mr. Surve's amendment.

Sardar Khan Bahadur A. M. DALAL (Broach District) : Sir, I oppose the amendment. I think that the words 'with the sanction of Government' are absolutely necessary. I think a contingency such as the one given by my honourable friend the member from Ahmednagar may arise, when the majority may pass a vote against the president, and in that case Government should have the last word to say on the subject.

As regards Sardar Mutalik's amendment, I shall speak later on.

Dr. S. S. BATLIWALA (Bombay City, North) : Mr. President, I am against the amendment proposed by my honourable friend on my left. I am of opinion that the function of the president is to guide the deliberations of the board and to put them on the right track and guide them in their judgment. I could very well understand the object of the mover of the amendment if there were such powers vested in the president as would enable him to exercise those powers autocratically without the sanction and permission of the board. But such absolute powers are not vested in the president ; therefore there is no such need to arm the members of the board with powers to remove the president. If members of a board have chosen their president by majority of votes, why should the president then be at the mercy of the whims of the members who, for a trifle cause may be dissatisfied with him ? Instances of such things occurring have been given by my honourable friends from Surat and Ahmednagar. For instance, if an address were proposed to be voted to an eminent personage—eminent from

[Dr. S. S Batliwala]

the point of view of the proposer, but not from the point of view of the president and others—and if the president did not support the proposition to vote an address, he would be at the mercy of those who thought otherwise, and he would be removed from the Chair. Sir, as I have said before the president's position is absolutely neutral and he is only to guide the deliberations of the meeting. Therefore I do not think that such absolute powers should be left in the hands of the members. Then it was argued that members should have power to remove him if they find him incompetent.

The Honourable the PRESIDENT : The honourable member is speaking on Sardar Mutalik's amendment.

Dr. S. S. BATLIWALLA : Mr. Surve's amendment is to add.....

The Honourable the PRESIDENT : Both the amendments run on the same lines with a difference. . The Sardar wants the words ' sanction of the Government ' to be added, while Mr. Surve does not want it. The discussion must be confined to the narrow point of the sanction of Government.

Dr. S. S. BATLIWALA : I think there is no necessity for both the clauses. That is my view. Now I have nothing further to add.

Dr. K. E. DADACHANJI (Bombay City, South) : Sir, I rise to support the amendment moved by my friend for the Bombay City, North (Mr. A. N. Surve). I do not understand why for the removal of the president or vice-president, the Government should have any power. It is the body that appoint him should have the right either to remove him or retain him. As regards our Bombay municipal constitution, we can appoint our deputy municipal commissioner subject to Government confirmation. There is no such thing here also that the president or vice-president should be appointed by the board subject to Government confirmation. Then why this clause ? The Government has no voice in the appointment. It is the reason why I support this amendment.

The Honourable the PRESIDENT : How is the provision with regard to the English County Councils ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : With regard to the municipal constitution we have given the right.....

The Honourable the PRESIDENT : Is there any clause with regard to County Councils which says that the president shall be removable by a particular vote ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Mr. Rothfeld says that he is not removable.

The Honourable the PRESIDENT : I am merely putting it to the House, to save time, whether the House has not debated the question sufficiently and if there is any real necessity for further discussion on this question seeing that where a president is either elected or nominated, there need be no clause for his removal by the body over which he presides, because, even in the absence of any such clause, the body can make it very hot for him. They can pass a vote of censure. There is for instance no clause in the House of Commons to remove the Speaker, but the members can pass a vote of censure and even though it be in the most respectful terms, a self-respecting president, who has got a sense of honour will say " if you think I have lost your confidence, I bow, resign and retire ".

Mr. G. B. TRIVEDI (Thana District): Sir, if experience is valuable in this matter I can quote an instance where a president of a municipality.....

The Honourable the PRESIDENT: The honourable member should speak to Mr. Surve's amendment, and confine himself to the question whether it is necessary to have Government sanction or not.

Mr. G. B. TRIVEDI: There was a case of a municipality where the public were of opinion that the president was incapable of doing his duty and passed a resolution to that effect. (The Honourable Khan Bahadur Shaikh Ghulam Hussain: No, Sir.) The Government did not remove him. My difficulty is whether the local body concerned or the Government should have a voice with regard to the removal of the president.....

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: He was elected.....

Mr. G. B. TRIVEDI: If Government takes sides and do not remove a man who is incapable what is to be done? In spite of this I do admit that Government sanction is necessary, and I oppose the amendment. I oppose it on other grounds also. We know the present position, as was pointed out by the Honourable Minister in his opening speech, that there are factions. If there are no factions, and if there are no divisions of parties and other communal differences it is all right. But there are so many grounds on which parties are formed; And in such a case it is not the board alone that can decide such a question, we want some body who is impartial and who will take the right view of the question. Therefore I want that Government should have the power.

The Honourable the PRESIDENT: A mover of an amendment to an amendment having no right of reply, I will ask the Honourable Minister in charge of the bill to address the House on this amendment if he wants to do so.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, the honourable member for Thana ought to have told the House that the President whom he has referred to as being blind was the elected president of the municipality and elected by a large majority, and that the objection was raised not by the members of the municipality but by some outsiders. If Government were to interfere in such a case, I am sure the honourable member who is objecting to the amendment just now would say that Government are interfering in the internal affairs of the municipality. The Government in that case decided to let the municipality elect in the way they liked. So as you, Sir, have pointed out, the remedy lies in the hands of the municipality or the local board. If the president of the board does not act properly the board can pass a vote of censure. I think if we accept the amendment it will be liable to be abused as pointed out by several honourable members.

Amendment to amendment negatived.

The Honourable the PRESIDENT: Now the debate will proceed with Sardar Mutalik's amendment.

Mr. C. M. GANDHI (Surat City): Sir, while speaking on this amendment, with the permission of the Honourable Minister, if he pleases to give it, I want to move an amendment to the amendment proposed by Sardar Mutalik, that is,

"the words 'or with the sanction of Government by the Board by a vote passed by three-fourths the number of all members of the Board' be placed at the end of the clause."

My honourable friend places them after the words "by the Government". If my amendment were accepted the result of it would be that he would be removable by Government.

The Honourable the PRESIDENT: The honourable member wants to transpose the words in order to get rid of the words " for misconduct, or neglect of or incapacity to perform his duty ". But as the honourable member's amendment entirely changes the aspect of the whole question, he ought to have given notice of it. I cannot allow it for the same reasons which I gave for ruling out of order Mr. Pahalajani's amendment.

Mr. G. B. TRIVEDI (Thana District): Sir, there appears to be some confusion about the reason for which the power is given to Government. In the clause it is clearly said that Government may remove the president for misconduct or neglect or incapacity for public duty. Now according to the clause as it is worded these are the grounds on which he can be removed by Government. It is not stated there that he should be removed if he loses the confidence of the board or of the three-fourths of the members of the board. Of course as it is, it is right that Government should be impartial in these matters and should remove such president only on the grounds of his incapability of doing public duty, or on account of misconduct or neglect of duty. So I do not support this amendment on this ground, for the board can write to Government drawing their attention to the conduct or inability of the president, and they would do the needful.

The Honourable the PRESIDENT: I think Sardar Mutalik's amendment is a surplusage because he says " or with the sanction of Government, etc. ". Supposing the local board passes a vote by a majority of three-fourths that the president shall be removed, Government may give effect to it or not.

Sardar V. N. MUTALIK: Practically it will only be a recommendation. My point is that the initiative should lie with the local board. Under the present Act it lies with Government.

The Honourable the PRESIDENT: But can anything be pointed out to me in the clause which shows that in such a matter the local board cannot pass a vote of censure by a majority of four-fifths and afterwards make a recommendation to Government ? I think I must rule this amendment out of order because it is absolutely unnecessary.

Mr. Pahalajani's amendment is to insert as clause 26 (3) a certain clause, which ought to come in actually at the end of clause 27. Clause 26 deals with the question of the term of office of the president and the vice-president and their liability to be removed. Mr. Pahalajani's amendment relates to a new board, and therefore its proper place is at the end of clause 27.

Mr. B. G. PAHALAJANI: I agree with the Chair, but the point was discussed in the select committee.....

The Honourable the PRESIDENT: It must come at the end of clause 27 and not in clause 26. Otherwise, it will create confusion.

Clause ordered to stand part of the bill.

Clause 27 (*President and vice-president to continue to carry out certain duties until their successors take over charge*).

On the expiry of the term of office of a local board the president and vice-president shall continue to carry out the current administrative duties of their offices until such time as a new president and vice-president shall have been elected and shall have taken over charge of their duties.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, with your permission, before Mr. Pahalajani moves his amendment, I beg to point out that the amendment is at variance with clause 27.

The Honourable the PRESIDENT: The Honourable Minister will realise that there are certain points on which I must allow discussion in order that the points may be clear to me. I allowed that in the case of Sardar Mutalik's amendment. I cannot prematurely shut out an amendment. I will allow Mr. Pahalajani to move his amendment.

Mr. B. G. PAHALAJANI (Western Sind): Sir, I beg to move:

"Add at the end of clause 27, the following:—

'In the case of a new board constituted under this Act, the meeting for the election of a president shall be called by the president of the retiring board; at the meeting so called, the new board shall elect its own chairman, who shall conduct the proceedings of the meeting for the election of the president.'"

Sir, my amendment does not require any argument. This addition is rendered necessary by practical difficulties experienced by those who work in municipalities. I shall deal with the point raised by the Honourable Minister, that my amendment is inconsistent with clause 27. I respectfully submit that it is not. Clause 27 says:

"On the expiry of the term of office of a local board the president and vice-president shall continue to carry out the current administrative duties of their offices until such time as a new president and vice-president shall have been elected and shall have taken over charge of their duties."

Now, the Honourable Minister will agree with me that this concerns administrative duties only. The administrative part of the duties is confined to control of the office, signing of cheques, etc. I will give one instance. Suppose on the 31st of March the whole board goes out and the meeting for the election of the new president does not take place until middle of April. During that interregnum this clause lays down that the old president and vice-president may carry on the administrative duties. My amendment does not in any way concern the administrative duties of the office of president or vice-president which have to be carried out. Clause 27 as drafted makes provision only so far as the administrative duties are concerned.

The Honourable the PRESIDENT: How do you distinguish between the deliberative and the administrative duties? The duties of a municipality or local body are both administrative and deliberative. It is only in the case of the Legislative Councils or of Parliament that they are deliberative. They control: they do not administer. But in the case of local boards and municipalities the two functions are combined.

Mr. B. G. PAHALAJANI: So far as administrative duties are concerned, clause 27 makes provision. But so far as merely deliberative duties are concerned, and the election of a president is one, there is no clear and distinct procedure laid down in the bill.....

The Honourable the PRESIDENT: I am afraid the honourable member's argument is based on a misunderstanding of the provisions of the Local Boards Act. First of all, let us make our minds quite clear as to what is meant by the administrative functions of the local board. The honourable member seems to distinguish between a meeting of the local board for deliberative functions and one for administrative functions of the board. Is it not so?

Mr. B. G. PAHALAJANI: Yes, Sir.

The Honourable the PRESIDENT: But my answer to it is this: A municipal or a local body is also administrative, not purely deliberative. For instance, when a local board or a municipal committee meets, it is true that they deliberate, but they also administer as executive authorities the sanitary, educational and other affairs of their areas. When the president presides over a meeting of the local board or of the municipality, he is part of an

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administrative body. In the case however of the House of Commons or this Legislative Council they are not administrative, but deliberative bodies.

Mr. B. G. PAHALAJANI : My point in this matter is that when the old president of a board retires having done his duty and since the term of office has expired, that old president should not preside at a meeting held for the selection of new office-bearers. That is what I am pressing upon this Council.....

The Honourable the PRESIDENT : Because that particular meeting is for the purposes of a deliberative function, not administrative business.

Mr. B. G. PAHALAJANI : Because that retiring president has ceased to be the president and for the new board which has become deliberative a new procedure ought to be employed at which a new president might preside and my amendment therefore is a very simple one.....

The Honourable the PRESIDENT : Now I see the amendment is perfectly in order and so is the honourable member's speech.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : May I curtail the debate, Sir ? If the honourable member's amendment is not inconsistent with clause 27, I accept his amendment.

The Honourable the PRESIDENT : It is not inconsistent. It is a mere proviso which the honourable member from Sukkur wants to add at the end of clause 27, namely,

"Provided that in the case of a new board constituted under this Act on the expiry of the old one, a meeting for the election of a new president shall be called by the president of the retiring board : at such meeting the new board shall elect its own chairman and proceed to elect the president."

Rao Bahadur G. K. CHITALE (Ahmednagar District) : Sir, I am not clear whether this addition to the section is to continue the succession of the president until the charge is handed over. I think my honourable friend from Sukkur was right in his contention that under the present Local Boards Act, as soon as the term expires the president and all office-bearers who are not permanent officials go out of office, and there is no board existing and no office-bearers, and therefore there is no responsible official except the permanent officials. I wish to bring to this Council' s attention that the president who is the head of the board, who is responsible for the whole administration of the board, this section provides, shall remain in office until and unless he is succeeded by another who will have the right of handing over and taking over charge and of being responsible for the administration. There is a very great responsibility involved in the proviso.....

The Honourable the PRESIDENT : That is still kept intact under the clause, the only exception taken to it is as to his right to preside at a meeting for the election of a new president.

Rao Bahadur G. K. CHITALE : It is conceded that the first meeting of the board of which he may not be the president or even a member is to be called and at that board however he is not to preside, so that he disappears altogether without handing over charge.

The Honourable the PRESIDENT : The rest of the administration does remain with him, because he has to hand over charge. The only thing he is deprived of is sitting in the chair as president. I do not think that there is any necessity to raise objections. The other administrative duties are not affected.

Mr. C. M. GANDHI (Surat City): The idea, Sir, is that at the meeting so called a new board shall elect its own chairman. Suppose it happens that that meeting does not come to a conclusion and has to be adjourned, will not that adjourned meeting be competent to elect its chairman?

The Honourable the PRESIDENT: The adjourned meeting is a continuation of the old meeting.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Sir, it has happened once that a meeting could not elect its chairman owing to an equal number of votes on both sides. What should be done in that case?

The Honourable the PRESIDENT: The casting vote of the chairman should be made use of.

Rao Bahadur R. M. NILKANTH: Nobody has a casting vote. Somebody by law has to be authorised to preside at such a meeting.

The Honourable the PRESIDENT: That is an argument I cannot interfere with on a point of order. The House alone has the right to decide its fate.

Rao Bahadur R. M. NILKANTH: Government had to interfere and appoint a president.

The Honourable the PRESIDENT: The point is that when such a meeting is called, who should preside? It is for the Council to decide whether they ought to accept the amendment or not.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Let me reply to the point made by the honourable member from Ahmedabad. The old president will continue the functions.

Rao Bahadur R. M. NILKANTH: How long?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Till they come to a decision.

Mr. C. M. GANDHI (Surat City): May I move, Sir, an addition to this?

The Honourable the PRESIDENT: No, the honourable member has already spoken.

Mr. G. B. TRIVEDI (Thana District): Sir, in the case which was cited by my honourable friend from Ahmedabad the parties did not come to an agreement to appoint a chairman. There is no question of a casting vote on a question of chairman at all. In such a case, how could the business be done? So a proviso should be added. If there is a deadlock, the old president should continue.

The Honourable the PRESIDENT: The old president will continue to preside until a new one is elected.

Rao Bahadur G. K. CHITALE: Before the new board elects a president? Supposing there are 8 votes for and 8 votes against, then what will happen?

The Honourable the PRESIDENT: The position is this. As soon as the members of the local board come in, there must be somebody to sit in the chair; otherwise there is no meeting.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: There is the old president; he will sit.

Rao Bahadur G. K. CHITALE: But he may not be a member.

The Honourable the PRESIDENT: He may not be a member. Let us take the leading section. It says the old president is to continue his administrative duties. So until a new chairman is elected, he sits in the chair till the meeting elects its chairman; then he vacates the seat.

Rao Bahadur G. K. CHITALE: But supposing eight votes are given for one member and eight votes against him.

The Honourable the PRESIDENT: Then, the old president gives the casting vote. Until a new chairman is elected he must perform the functions of a chairman. But *ex majore cautela*, the honourable member may put it like this:

"Provided that in the case of a new board constituted under this Act a meeting for the election of a president shall be called by the president of the retiring board. At such meeting the new board shall be presided over by the president of the old board, and then the meeting shall proceed to elect its own chairman, who shall conduct the proceedings of the meeting for the election of the president."

I think that makes it quite clear.

Rao Bahadur G. K. CHITALE: Clause 27 says: "until such time as a new president shall have been elected and shall have taken over charge of their duties".

The Honourable the PRESIDENT: I am speaking not of the president, but of the chairman of the particular meeting. He has the right to give a casting vote. That is a different question altogether. Now, I think the amendment as I read out to the House solves the difficulty. Is that agreed to? Does any member wish to say anything?

Mr. C. M. GANDHI: Supposing, Sir, he is not a member of the board?

The Honourable the PRESIDENT: He still continues to be a member for the time being until dislodged. I think we must credit these local boards with common sense. So the amendment to be put may read as follows if the mover agrees:

"To clause 27 at the end add a proviso, namely:

'Provided that in the case of the new board constituted under this Act a meeting for the election of a new president shall be called by the president of the retiring board. The president of the retiring board shall preside at such meeting and the new board shall then elect its own chairman for that meeting and then the meeting shall proceed to elect the new president.'"

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 28 (*Term of office*) ordered to stand part of the bill.

Clause 29 (*Resignation of office as member of board*) ordered to stand part of the bill.

Clause 30 (*Disqualification of member after election*).

(1) Any member of a local board who, during the term for which he has been elected or appointed

(*a*) becomes disqualified under sub-section (1) of section 9 or

(*b*) having any share or interest such as is described in clause (*a*) or (*b*) of sub-section (2) of section 9, acts as a member of the local board in any matter relating to a contract or agreement between the local board and the company or society or the manager or publisher of the newspaper described in the said clauses or,

(*c*) is absent for more than four consecutive months from the district or taluka for which the board is established, unless leave so to absent himself, which shall not exceed six months, has been granted by the board, or in the case of a vice-president by the president, or absents himself for four consecutive months from meetings of the board without the leave of the board

shall cease to be a member and his office shall become vacant.

(2) If any question, dispute or doubt arises whether a vacancy has occurred under this section, the orders of the Commissioner shall be final for the purpose of deciding such question, dispute or doubt.

Rao Saheb D. P. DESAI (Kaira District): The amendment, Sir, which I wish to move is as follows :—

"In sub-clause (1) (c) of clause 30 leave out the words ' for four consecutive months from' ; insert instead the words ' from four consecutive.' "

Sir, in local boards they have quarterly meetings. They do not hold monthly or fortnightly meetings just as in municipalities. So, if the clause is allowed to remain as it is, if a member misses only one meeting, then he ceases to be a member and his office becomes vacant. Therefore, I want the words ' four consecutive months ' to be left out, and to provide that a person shall cease to be a member of the board when he absents himself ' from four consecutive meetings '. The word ' meetings ' is there already and so only the words " from four consecutive " should be put in.

The Honourable the PRESIDENT : The amendment is not properly worded. The rule is that words once taken out cannot be reinstated, for to do so is inconsistent with the decision of the Council that those words shall be left out. Therefore, the amendment should be :

" Leave out the word ' for ' and insert instead thereof the word ' from ' ; and leave out the words ' months from '. "

Rao Saheb D. P. DESAI : I move this amendment with the idea that if a member only absents himself from one meeting, he should not cease to be a member of the board. Under the existing provisions, he is so disqualified, because in local boards only quarterly meetings are held. Supposing he were not to attend one quarterly meeting, then you disqualify him from being a member of the board altogether. With that idea I move the amendment.

Mr. G. B. TRIVEDI (Thana District) : Mr. President, the difficulty pointed out by my honourable friend who has moved this amendment is a real one. Suppose there is a meeting of a local board in January and a member attends it. Then, the next meeting, according to the bill, will be in April. Suppose by some mischance, although a member wants to attend the meeting, he fails to attend—he may miss the train, there may be some other accident, or there may be illness in his family—he ceases to be a member of the district local board. According to the provisions of the bill, a man who has attended a meeting in January, who fails to attend a meeting in April, and attends again a meeting in July, is absent for consecutively four months, and is therefore disqualified. That is one difficulty.

Now, every quarterly meeting requires a notice of 21 days, and every special meeting a notice of 14 days to be given. Supposing there are two meetings a month, the man will have a chance of attending four meetings in two months. If he purposely absents himself from four such meetings during two months, it is quite clear that he should be removed. But, as it is, if by some mischance a person fails to attend a quarterly meeting, he ceases to be a member. Therefore, I think the amendment is a fair and right one, and ought to be accepted.

Mr. C. M. GANDHI (Surat City) : Mr. President, I think I should oppose this amendment, for this reason. If the man is allowed the liberty of absenting himself from four consecutive meetings, it comes to this, that for sixteen months he may be absent, and yet he may not be disqualified. That is rather an encouragement to laziness, though I do concede that it is a great hardship to disqualify a man for being absent from one meeting. I think the only possible way in which the difficulty would be solved would be by the Honourable Minister accepting an amendment to disqualify a member for not

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being present at three or two consecutive meetings. I think that three meetings, which was in the original bill, may be accepted.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: That is, absents himself from three consecutive meetings of the board without the leave of the board. Therefore, I desire, Sir, that the words 'four consecutive months' might be dropped.

Mr. B. G. PAHALAJANI (Western Sind): Sir, before the amendment is accepted, I shall place a difficulty before the Honourable Minister. The section lays down that absence of four months will disqualify a member. Hardly one meeting can be held every four months. It will be hard to imagine failure to attend one meeting should disqualify a member from continuing on the board.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, whatever is done it should be definite. There should be no indefiniteness in the disqualification. It appears to me that the best procedure would be to lay down that absence from two consecutive quarterly meetings or for 6 months would disqualify a member. I have some experience of local self-government, and I must say that it is necessary to make the disqualification definite. Three quarterly meetings would mean nine months, which is too long a period to allow absence from meetings. It would, I think, be better to change the period provided in the clause from 4 to 6 months. It will make the provision definite and give longer period to meet contingencies.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I shall move the amendment, Sir.

The Honourable the PRESIDENT: Unless the old amendment is withdrawn, I cannot accept this.

Rao Saheb D. P. DESAI: I beg leave to withdraw my amendment.

Amendment by leave withdrawn.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I move, Sir, as follows:

"In clause 30, sub-clause (1) (c), omit the word 'four' and insert instead the word 'six'."

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 31 (*Removal of members for misconduct, etc.*)

The Government in the case of a district local board, and the Commissioner in the case of a taluka local board, may, if it or he thinks fit, on the recommendation of the local board, remove any member of such local board, elected or appointed under this Act, if such member has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or has become incapable of performing his duties as a member of the local board.

Mr. A. N. SURVE (Bombay City North): Sir, I move that

"In clause 31, line 3, after the word 'Act' add the following clause:—
'after giving him an opportunity of being heard and after such inquiry as it or he considers necessary'."

The Honourable the PRESIDENT: In this amendment we have "after giving him an opportunity of being heard and after such inquiry as it or he considers necessary". Who or what is "he"?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I accept the amendment worded as follows:—

"After the words 'elected or appointed under this Act if' in line 3 of clause 31, add the following words:—
'after giving the member an opportunity of being heard and after such inquiry as the Government or the Commissioner as the case may be deems necessary'."

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 32 (*Vacancies to whom to be communicated*) allowed to stand part of the bill.

Clause 33 (*Casual vacancies how to be filled up*).

In the event of a vacancy occurring on account of the death, resignation, disqualification or removal of a member of a local board or from any other cause or through a member becoming incapable of acting, previous to the expiry of his term of office, the vacancy shall be filled up, as soon as conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the member in whose place he is elected or appointed would have held it if the vacancy had not occurred.

Mr. G. C. BHATE (Kolaba District): Sir, I beg to move

"In clause 33, line 2, omit the words 'or from any other cause'."

The reason for omitting these words is that in the old section 15 these words do not appear. They did not appear also in the original bill. It was only in the select committee that these words were added and the reason for adding these words as stated in the select committee's report is that this has been amended to cover all causes of vacancies, for instance clause 25 (1). But the House will see, Sir, that clause 25 (1) refers to the vacancies in consequence of the absence of president or vice-president without leave and not to the vacancies on the board as such, while this clause 33 refers to vacancies of membership of the board. So this clause 25 (1) has no reference to clause 33. I therefore move that the words "or from any other cause" be omitted.

The Honourable the PRESIDENT: Is there any other clause in the bill which prescribes the circumstances under which a vacancy may occur?

Mr. G. C. BHATE: In the bill there is a clause as regards disqualification, *viz.*, clause 30; there is a clause as regards removal, *viz.*, clause 31.

The Honourable the PRESIDENT: There is no clause as regards death or resignation.

Mr. G. C. BHATE: There are the words "or has become incapable of performing his duties as a member of the local board" in clause 31. Therefore the words "or from any other cause" in clause 33 are unnecessary. Then again, as I said, they were not in the original bill but that they were added by the select committee, on the ground that they cover all kinds of vacancies, for instance, clause 25 (1), which is not a correct position to take. I therefore hope that my amendment will be accepted.

The Honourable the PRESIDENT: I think the Honourable Minister had better accept this amendment. As the honourable mover has pointed out, disqualification, removal, incapability, death are all provided for. Now is there any other cause? If not, why have an unnecessary statement in a legal enactment?

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 34 (*Temporary provisions pending election of boards under this Act*) ordered to stand part of the bill.

Clause 35 (*Meetings of local boards*).

(1) A local board shall meet together not less than once in every 3 months and shall from time to time make regulations, consistent with this Act and with any rules or orders made by the Government in this behalf under clause (c) of section 133 with respect to the place, day, hour, notice, management, and adjournment of such meetings, and generally with respect to the transaction of business, as it thinks fit, subject to the provisions of the following sub-sections.

(2) (*a*) The president shall fix the dates for the quarterly meetings hereinbefore prescribed and may whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the members and for a date within twenty-one days from the receipt of such request, call a special meeting.

(*b*) Twenty-one clear days' notice of a quarterly meeting and fourteen clear days' notice of a special meeting, specifying the time and place at which such meeting is to be held and the business to be transacted thereat, shall be circulated to the members and posted up at the local board office. Such notice shall include in the case of a special meeting any motion or proposition mentioned in any written request made for such meeting.

(*c*) If less than one-third of the whole number of members be present at a meeting at any time from the beginning to the end thereof, the presiding authority shall adjourn the meeting to such hour on the following or some other future day as he may reasonably fix; a notice of such adjournment shall be fixed up in the local board office, and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed off at such meeting or at any subsequent adjournment thereof, whether there be a quorum present or not.

(*d*) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the board such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings.

(*e*) Every meeting shall be presided over by the president, if he is present at the time appointed for holding the same, and, if he is absent, by the vice-president, and if both the president and vice-president are absent, by such one of the members present as may be chosen by the meeting to be chairman for the occasion.

(*f*) All questions shall be decided by a majority of votes of the members present, the president, vice-president or chairman, as the case may be, having a second or casting vote in all cases of equality of votes.

(*g*) Except with the permission of the presiding authority, which permission shall not be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof, no business shall be transacted and no proposition shall be discussed at any quarterly meeting unless it has been entered in the notice convening such meeting or, in the case of a special meeting, in the written request for such meeting. The order in which any business or proposition shall be brought forward at such meeting shall be determined by the presiding authority, who in case it is proposed by any member to give priority to any particular item of such business or to any particular proposition, shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.

(*h*) Any quarterly meeting may, with the consent of a majority of the members present, be adjourned from time to time; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

(*i*) No resolution of a local board shall be modified or cancelled within three months after the passing thereof, except by a resolution supported by not less than one-half of the whole number of members and passed at a quarterly meeting, whereof notice shall have been given fulfilling the requirements of clause (*b*) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting and the motion or proposition for the modification or cancellation of such resolution.

(*j*) Except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed, or which under section 45 may only be executed for the board by the Government Executive Engineer of the district, or to any educational matter, shall be transacted at any meeting of a local board, unless at least fifteen days previous to such meeting a letter has been addressed to an officer of the Government Public Works and Educational Departments, respectively, who is not a member of the board, but is entitled under section 40 to be present at such meeting informing him of the intention to transact such business thereat and of the motions or propositions to be brought forward concerning such business.

(*k*) Minutes shall be kept of the names of the members and of the Government officers, if any, present under the provisions of section 40 and of the proceedings at each meeting of the board, and if any member present at the meeting so desire, of the names of the members voting, respectively, for or against any resolution, in a book to be provided for this purpose, which shall be signed, as soon as practicable by the president, vice-president or chairman of such meeting, and shall at all reasonable times be open to inspection by any member of the board or by any inhabitant of the district.

(*l*) Every regulation made under this section by a taluka local board shall be subject to the approval of the district local board to which such taluka local board is subordinate.

Vacancy not to act proceedings of board or committee.

(3) During any vacancy in a local board, the continuing members may act as if no vacancy had occurred.

Acts of board, etc., not to be invalidated by informalities.

(4) No act of a board, or of any person acting as a member or as a president, vice-president or chairman, shall be deemed to be invalid by reason only of some defect in the appointment of such board, president, vice-president, chairman, or member, or on the ground that they, or any of them, were disqualified for the office of member, or that formal notice of the intention to hold a meeting of the board was not duly given, or for any other such mere informality.

The Honourable the PRESIDENT: I am afraid Mr. Gandhi's amendment to clause 35 (*e*) is not properly worded. I think the amendment ought to be worded as follows:

"In sub-clause (2) (*e*) of clause 35, add the word 'or' before the word 'if' in line 27, leave out the words 'if he is present at the time appointed for holding the same, and' in lines 27 and 28, and leave out the word 'is' in line 28, and insert instead thereof the word 'be'."

Mr. C. M. GANDHI: My only point in moving this amendment is, Sir, that.....

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I accept the amendment, but I only want the words "or if he be absent."

The Honourable the PRESIDENT: The amendment is accepted by the Honourable Minister, and I do not think the House wants any discussion on it.

Amendment carried.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, may I point out a difficulty which occurs to me? The clause as it stands at present provides that

"Every meeting shall be presided over by the president, if he is present at the time appointed for holding the same, and, if he is absent, by the vice-president, and if both the president and vice-president are absent, by such one of the members present as may be chosen by the meeting to be chairman for the occasion."

This provision lays down that it is the duty of the president or the vice-president to be present at the time of the commencement of the meeting; if they are absent, the meeting is not required to wait for them but to proceed with the business by appointing a chairman. Supposing the president or the vice-president arrived five minutes before the meeting is going to be adjourned, what happens if the alteration is accepted? As soon as the president or the vice-president arrives the chairman will have to vacate, in order to allow the president or the vice-president who may be very late, to occupy the chair. The clause as it stands imposes an obligation upon the president to be present at the time of the commencement of the meeting which is fixed by himself, and if he is absent at the time, then the work of the board proceeds. If he comes late he is not entitled to preside.

The Honourable the PRESIDENT: I do not think there is any great difficulty. Absence may be temporary or permanent. I think therefore the clause as amended is in form right.

The Honourable Sir IBRAHIM RAHIMTOOLA: Personally, Sir, I would rather not interfere. I will leave the matter in the hands of the Minister. If the president calls a meeting and fixes the day and hour for the purpose and is absent himself the work of the board must proceed. If the clause is left as it is, it would be an obligation upon the president to be present in time.

The Honourable the PRESIDENT: The House has already passed this clause. As it stands, every meeting shall be presided over by the president or if he is absent, by the vice-president....." I don't see any difficulty.

Clause as amended ordered to stand part of the bill.

*(After recess.)*

Clause 36 (*Standing Committee*).

(1) Every local board shall appoint a standing committee consisting of such number of members not being more than seven and not less than five as the board may determine.

(2) The standing committee shall perform the functions allotted to it under this Act, and subject to any limitations or other provisions contained in rules made under section 133 clause (*c*) or regulations made under section 35, sub-section (1), shall exercise all the powers and perform all the duties of the local board which have not been delegated to any other committee.

(3) The President shall be ex-officio a member and chairman of the standing committee in addition to the members appointed under sub-section (1).

Mr. B. G. PAHALAJANI (Western Sind): Sir, I beg to move that in clause 36, add the following sub-clause, namely:

"The Collector of the district or an Assistant or Deputy Collector authorised by him in this behalf shall attend the meeting of such standing committee, on occasions on which the budget is discussed."

I consider, Sir, that this sub-clause is necessary. We are now making a new experiment and we are extending the franchise. We are excluding property qualification, and educational qualification and we are giving the right to all who pay only Rs. 8 land revenue. Sir, so fas as these new local boards are concerned, their most difficult task under this extended franchise will be the passing of the budget. Now, Sir, according to the old Act the budget had to be prepared and had to be submitted to the Collector before it was passed. According to the old Act the Collector used to be president of the district local board and he has full control of the expenditure of the board. Under the bill with a non-official president and a non-official vice-president the Collector or the Assistant Collector will cease to take any interest in the administration of the district local board, and though the district local board has power to request the presence of an expert or educational inspector, etc., there is no provision in the bill to call in the Collector or the Assistant Collector to be present at budget meetings. Sir, the presence of the Collector or the Assistant Collector who is in charge of the revenues of the district is absolutely necessary and power should be given to the boards to enforce his attendance. The Collector of the district is the head of the Revenue Department, is the head of the judiciary, and is the head of the executive in the district, that is to say, he is the head of all the departments that are now under the executive Council or in other words concernings reserved subjects. Under the bill those departments to which transferred subjects belong are being transferred to the new district local boards. Under clause 50 of the bill the boards have to perform their functions connected with roads, veterinary dispensaries, hospitals, education, sanitation, etc. These are important duties laid upon the district local boards. All the functions relating to the transferred subjects of the provincial Government are now being transferred to the local board, and all the reserved subjects are under the control of the Collector. For the purpose of co-ordination and harmonious working, for the purposes of consultation and good advice, it is absolutely necessary that the executive head of the district and the executive head of the district local board (I mean the whole district local board) should meet the Collector at the most important juncture, namely, the budget time. Not only the Collector *may* be present, but I say that this provision may be made

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in the Act to compel the Collector, to make it incumbent on the Collector or his Assistant or his deputy on his behalf, to be present at these budget meetings and advise the district local board in the best possible manner. It is to secure the co-operation the co-ordination.....

The Honourable the PRESIDENT: Is it necessary to repeat the same arguments in different words?

Mr. B. G. PAHALAJANI: My object is not to make it voluntary but to make it compulsory for both officers to meet each other and it is therefore that I press my amendment on the Council.

Rao Saheb D. P. DESAI (Kaira District): Sir, I oppose the amendment as it will detract much from the freedom which should be enjoyed by local boards. If accepted this amendment would do away with the freedom of discussion at local board meetings. Of course suggestions from Collectors or Assistant Collectors as to the best ways of doing certain things would always be welcome. Even at present the Collector writes to the district local board if he finds that in his opinion certain things should be done such as the provision of a well here, the repairs of a road there, the supply of a school building here or some such matter, and the board does take it into consideration, but I do not see what more he can do by being present at any particular meeting. Suppose, however, that a Collector or his Assistant or his deputy takes it into his head that particular things should be done by the district local board which on the contrary considers that it should not be so done what would be his position if he is present? The Collector or his Assistant or deputy would, by his indirect or direct influence, try to impress his own opinion on the board and the freedom of discussion and action would thus be greatly jeopardized. It is therefore not at all wise that a district or a sub-divisional officer should be compelled to be present at any meetings of a local body. If they are members, then of course, there is no other go and they may enjoy their right as members and we have no objection to that.

Often times it happens that the Collector or his Assistant is not conversant with the preliminary arrangements and detailed items of the budget of a local body. What good could you expect from the criticism or advice of an officer who has not been in touch or kept informed about all those matters. The amendment was proposed in the select committee and rejected. I should not advise the Council to accept it now.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, I also beg to oppose the amendment before the House. Under the new bill we are freeing local bodies from official control and I do not think it would be a wise step to seek to restrict the freedom of such bodies by compelling, by law, a Collector or his Assistant or his deputy, to be present at meetings of local bodies. The procedure at present is this, that district local boards appoint a body of experts to frame their budgets. They go through the budget item by item, and then it is brought before the general meeting of the board. A copy is then sent to the Collector who writes in his capacity of a supervising official and makes any suggestions by letter to the district local board, if he thinks any improvements are necessary. I should consider it would be a very unwise step to ask the Collector to be present under any law. The amendment should therefore be rejected.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Sir, I also oppose the amendment and I must say that nothing surprised me more than

[Sardar V. N. Mutalik]

that this amendment should have come from the honourable member from Sukkur. It passes my imagination to find that he seems to feel so much for these district officers of whom he has spoken on several occasions in this House that he considers their presence absolutely necessary at meetings of local bodies. I do not wish to repeat arguments used by members who have preceded me in opposing the amendment, but I must say that it would be unwise at this stage of progress to.....

The Honourable the PRESIDENT: That is repeating the argument.

Sardar V. N. MUTALIK: These district officers have other duties to perform and have to tour in the districts, and if they are forced to attend such meetings, the administrative work will suffer. To give advice practically means forcing their views on the members of local bodies and I think by their presence the liberty of action and discussion of the members of the standing committees of local bodies will suffer. I think, Sir, work also will suffer. We do not want in these days to limit the freedom of our discussion and we all know what the advice and presence of a Collector means to the common, ordinary people, who may be sitting on the board, in such respects. There are very few people who can show the necessary courage and independence of character in throwing out the advice of the Collector if they consider he is wrong. I hope the honourable member will not press his amendment but will withdraw it.

Dewan Bahadur K. R. GODBOLE (Poona District): Sir, I wish to offer a few remarks as regards the amendment before the House. I think the advice of the Collector in the formulation of the budget for the district will always be valuable. I have found in the administration of the board with which I am connected that the advice offered by the Collector and by assistant and deputy collectors is specially valuable and helpful as regards the works that ought to be carried out in the district, as regards the tolls that ought to be imposed and as regards new roads and extensions of roads for traffic and similar matters. Especially in the matter of allocation of grants for the repairs of roads, the advice given by these revenue officers, with their intimate acquaintance with the district is extremely valuable. If possible therefore their assistance should be secured on occasions on which the budget is under discussion. I support the amendment, therefore, but I would modify it in the way I am going to suggest. I think it should be optional with the president of the district local board or the district local board to ask for the advice of the Collector and other revenue officers of the district. I would, therefore, amend the amendment that has been placed before the House in this way:

"At the request of the president the Collector of the district or an assistant or deputy collector authorised in this behalf by him shall attend the meeting of such standing committee on occasions on which the budget is discussed and offer his advice as regards the budget."

The Honourable the PRESIDENT: Is there anything to prevent the president at present from asking the Collector or any other officer to give any advice?

Dewan Bahadur K. R. GODBOLE: There is nothing to prevent. The Act, however, provides that the board can ask the Educational Inspector and the Executive Engineer. Only two officers are mentioned to attend the meetings of the local board, and the Collector is not mentioned.

The Honourable the PRESIDENT: As regards the standing committee?

Dewan Bahadur K. R. GODBOLE: No; I mean meetings of the board.

The Honourable the PRESIDENT: A meeting of the board can be distinguished from a meeting of the committee, because a committee can call

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anybody and take his advice. The committee is not tied down as regards procedure just as the main body is. The amendment of the honourable member from Poona seems to me to be unnecessary. The power is there already ; is it not ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Yes. There is nothing to prevent the committee from calling anybody and taking advice.

The Honourable the PRESIDENT : I rule the amendment of the honourable member from Poona out of order.

Rao Bahadur S. D. GARUD (West Khandesh District): Mr. President, I beg to oppose the amendment. I do not know why my honourable friend from Sukkur finds it necessary to bring in such an amendment at all. I cannot understand why the Collector should be asked to attend the meetings of the standing committee. Is he to be there as a financial expert ? Is he to be asked to attend in addition to the revenue officials who are frequently nominated members of boards ? He often nominates officials as members on the district local board on behalf of Government. Practically this work is done by the Collector and he appoints revenue officers to be members of the board. Under those circumstances, the advice of all those officials will be available to the standing committee or to the board, and I see no necessity to ask the Collector to attend the meetings of this committee. The Collector's advice, as he has a general control over the work of the board, will always be available and it is available even at present, not only as regards the budget, but as regards several other things in the administration of the district local board ; for instance, sanitary measures and many other measures connected with the administration of the local board. His advice and his assistance is readily given. I do not see why he should be asked to attend meetings of this committee since he is not a financial expert and since the advice of the other revenue officials who are nominated will always be available. I therefore see no necessity for this amendment and as you, Sir, have just pointed out, it will be competent to the committee to ask the Collector for advice whenever it is required and we need not, therefore, have such a provision on the statute book at all. Therefore I do not see any necessity for such an amendment or an amendment of that amendment which has been suggested by the honourable member from Poona, Dewan Bahadur Godbole.

Mr. G. A. THOMAS : I move the closure.

The Honourable the PRESIDENT : I accept the closure.

Mr. B. G. PAHALAJANI (Western Sind) : Sir, I adhere to my amendment and I do so on these grounds. I know, and I feel that the Government officials, the Collector or the Assistant Collector will not attend unless he is compelled to attend. They will consider it below their dignity to do so : but as for a better understanding and for better guidance, their advice will be very useful for some time to come it would be desirable that the board should have the power to say that the Collector shall attend. On the other hand, I cannot understand the present mentality of the opposition from non-official members, unless it be through nervousness. I cannot agree with my honourable friend from Kaira that the presence of the Collector is of no consequence at all and will only endanger the freedom of discussion and will so influence the persons present as to debar them from exercising their commonsense. I do not think the presence of the Collector will affect the administration of the affairs of the district local board, or that our new district local board will not have the independence to withstand the presence of a district officer.

[Mr. B. G. Pahalajani]

My friend from Khandesh said the Collector has a right to nominate certain members, mamlatdars or other officials, as experts on the board who can be useful to them at budget time. He forgets, however, that, according to the present constitution, we have already sanctioned, under section 6, three-fourths will be elected by the enlarged vote and one-fourth is to consist of the representation of other classes including the depressed classes, so that there may be none who can be nominated from the official class who could give such advice as I have mentioned. It is therefore that I suggest that, so far as the preparation of the budget is concerned, the Collector or deputy collector should be compelled to be present, in order that the members and the president may take advantage of his advice. We hope, according to the new constitution, that the presidents of district local boards will be self-respecting and independent persons. I have every reason to believe that my honourable friend from Kaira is such a person, and can assert himself in spite of the presence of the Collector of his own district. He does so here in the Council in spite of officials higher than the Collector. I therefore submit that this amendment should be welcomed for the better administration of the newly formed district local boards that are coming into existence.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I am very delighted to see the change of attitude on the part of the honourable member from Sukkur, and the appreciation of the services of official members to the district local boards. His suggestion is not original. He has probably borrowed it from the French system, where they give internal independence to the boards, but external control is largely kept in the hands of the prefect, who is an officer of the rank of a Collector. In France the prefect has very large powers of control even over the budget. Although I am very glad to hear the honourable member's views, I am sorry he does not want to adopt the French system in its entirety, as he does not give the Collector, deputy collector or Assistant Collector any control over the budget. He wants that whatever suits the purposes of the boards in the advice of these officers may be adopted by the boards. He says that the boards will accept what they want, and reject the rest. That is not fair. If he wants to follow the French system, give these officers control over the budget, then Government have no objection to it, but if he desires that the district boards should only have the advice of these officers, which they may accept or reject, then Government strongly object to it. For this reason, and also for the other reasons which have been advanced by other honourable members, I hope that the Council will not accept the amendment.

Amendment negatived.

Clause ordered to stand part of the bill.

Clause 37 (*Public health committee*) ordered to stand part of the bill.

Clause 38 (*Other executive committees*).

(1) A local board may appoint committees consisting of such members as the local board may decide or any member or honorary or stipendiary officer of the board to exercise the powers and perform the duties of the local board in respect of any purpose; not being where a public health committee has been appointed, powers or duties referred to in section 37, sub-section (2).

(2) Where a committee is appointed to manage a dispensary, the local board may appoint any local residents to be members of such committee.

(3) Any such committee, member or officer shall comply with any instructions that may from time to time be given by the board.

(4) The board may at any time discontinue or alter the constitution of any such committee or withdraw any of the powers or duties which any such committee, person or officer has been appointed to exercise or perform.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, the amendment that stands in my name is as follows:

"In clause 38 (1), line 3 after the words 'in respect of any purpose' the following words to be inserted:

'Subject to any limitations and provisions contained in rules made under section 133, clause (*c*) or regulations made under section 35, sub-section (1).'"

If the clause is allowed to remain as it is, it means that the board can delegate to a committee any power that it likes; that may include the power to make by-laws. In the case of other committees also we have provided limitations under the provisions of sections 133 and 35, and I propose to do the same in respect of this clause by my amendment. Otherwise, if it is allowed to stand as it is, the board may delegate any power that it likes. In the case of other committees also, as I have pointed out, we have prescribed these limitations. I hope the House will accept the amendment.

Amendment carried.

Rao Saheb D. P. DESAI (Kairà District): Mr. President, the amendment that stands in my name is as follows:

"In clause 38 (4), line 10, insert the following words between 'may' and 'at':

'by votes of three-fourths of the total number of its members'."

Under the clause as it stands, the board is empowerd to alter or discontinue the constitution of any committee.....

The Honourable the PRESIDENT: The words "total number of its" are unnecessary. It is enough to say "three-fourths of the members".

Rao Saheb D. P. DESAI: I accept the alteration. Under the clause as it stands, the board may appoint a committee to-day, and make an alteration in its constitution the next day. Such a provision is dangerous and so far as the education committee is concerned, the intention, so far as I am aware, is that the education committee should have a life of at least a year. If, however, the Honourable Minister will give an undertaking that in the rules that he is just empowered to make, he will make necessary provision to guard against such a contingency arising, I have no objection to withdraw my amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I undertake to do so.

Amendment by leave withdrawn.

Clause ordered to stand part of the bill.

Clause 39 (*Committees. Term of office, vacancies. Chairmen. Procedure. Meetings. Adjournments. Quorum*) ordered to stand part of the bill.

*Clause* 40 (*Certain Government officers may attend meetings of district local boards*).

(1) The Executive Engineer, the Educational Inspector and the Deputy Director of Public Health, and the Civil Surgeon of a district, when charged with any of the duties of a health officer therein, and a Deputy Director of Agriculture, or an Assistant Registrar of Co-operative Societies, charged with any duties of his office in the district, if not members of the district local board, shall have the right of being present at any meeting of the said board, or of any committee thereof, and with the consent of the board or committee, each of them may take part at such meetings in the discussion or consideration of any question on which in virtue of the duties of his office he considers his opinion or the information which he can supply will be useful to such board or committee: provided that the said officers shall not, unless they are members of the board, be entitled to vote upon any such question.

Certain Government officers may attend meetings of taluka local boards.

(2) Any officer of the Government Public Works Department not lower in rank than an overseer employed in a taluka, and any officer of the Government Educational Department not lower in rank than the Deputy Educational Inspector of a taluka may, in the like circumstances and subject to the same proviso, take part in the discussion or consideration of any such question as aforesaid at any meeting of the taluka local board of such taluka or of any committee of the said board.

Local boards may require the presence of the said officers at their meetings.

(3) If it shall appear to a district local board or to a taluka local board that the presence of any of the above officers respectively is desirable in the circumstances aforesaid at any future meeting of such board, or of any committee thereof, it shall be competent to such board by letter addressed to such officer not less than fifteen days previous to the intended meeting to require his presence thereat; and the said officer, unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting.

Rao Saheb D. P. DESAI (Kaira District): Sir, the amendment which I wish to move runs as follows:

"In clause 40, sub-clause (2), add the word 'assistant' before the words 'deputy educational inspector'."

My object in moving this amendment is this. In every district there are 7 or 8 talukas, and the deputy educational inspector would not be able to attend all the meetings. This is the reason why I think that it would be more convenient if the assistant deputy educational inspector is made to attend such meetings.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I accept the amendment.

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 41 (*President may circulate written propositions*).

(1) Whenever it appears to the president of a local board, or to the chairman of a committee unnecessary to convene a meeting, he may instead of so doing circulate a written proposition of his own, or of any other member of such board or committee, or of any executive officer of the board for the observations and votes of the members.

(2) Previous to circulating any such proposition for the votes of members the president or chairman may, if he thinks fit, and if the business to which it relates is of the nature described in clause (*j*) of sub-section (2) of section 35 shall obtain thereupon the remarks, if any, which any Government officer, not a member of the board, who is entitled under the provisions of section 40 to be present at any meeting at which such proposition might be considered, desires to record.

(3) The decision on any proposition so circulated shall be in accordance with the majority of votes of the members who vote upon it, unless a special meeting is convened to consider the proposition under clause (*a*) of sub-section (2) of section 35 or sub-section (5) of section 39.

(4) Every decision arrived at by the board under this section shall be recorded in the minute-book kept under clause (*k*) of sub-section (2) of section 35 or sub-section (4) of section 39.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, with regard to Mr. Bhate's amendment, I wish to point out to the honourable member that what he intends is actually embodied in sub-clause (3) of the clause.

Mr. G. C. BHATE: Sir, my amendment is:

"Add the following at the end of clause 41 (1):

'Unless this procedure is objected to on the ground of calling a meeting by at least one-fourth of the members amongst whom the proposition has been circulated.'"

What I wish to achieve by my amendment is that one-fourth of the number of members must have the right to say that the procedure of circulating the proposition should not be adopted and that a special meeting should be called for. What is contained in sub-clause (3) is a general right.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, the Honourable Minister refers to the general right of members to call a special meeting. That right remains. What I believe the honourable member wishes is that if one-fourth of the members express their desire on the circular when it is sent to them under this clause that a special meeting should be called it should be done. This would not necessitate the sending of a requisition for the purpose. He wants a special procedure to be adopted for calling a meeting when business is proposed to be transacted by circular.

Mr. O. ROTHFELD: May I explain, Sir, the position? The matter is different in the new constitution of the board from what the honourable member thinks. There will now be a district board meeting once a quarter for deliberative purposes on questions of policy. It will no longer have anything to do with executive or administrative work. On such matters of policy it would be impossible for any president to initiate propositions. They must be discussed in the session. If, however, such an attempt were ever made by the president, there is a very simple and easy procedure for requisitioning a special meeting. There is also a standing committee charged with the administrative executive duties. The standing committee is composed of a very small number of persons, regularly meeting once a fortnight. It would be quite unnecessary for propositions as a general rule to be initiated in such condition. Then again, however, if it is improperly used, the procedure for calling a special meeting can be brought into force if so desired. In the standing committee any provision such as the one proposed by the honourable member would be undesirable as it would cause delay. I trust the House will leave the section which was very carefully considered in the select committee as it is.

The Honourable the PRESIDENT: I have come to the conclusion that this amendment renders clause 41 (1) unnecessary. The distinction pointed out by the Honourable the Leader of the House is not substantial. I therefore rule this amendment out of order.

Clause ordered to stand part of the bill.

Clause 42 (*Mode of executing contracts*) ordered to stand part of the bill.

Clause 43 (*Local Funds ordinarily liable for all costs and expenses incurred by boards*) ordered to stand part of the bill.

Clause 44 (*Power to compromise*) ordered to stand part of the bill.

Clause 45 (*Works to be executed by the Government Executive Engineer*).

(1) Such of the works for which plans and estimates prepared or approved by the Government Executive Engineer of the district are required by clause (*b*) of sub-section (1) of section 89 as the Government shall from time to time by a general or special order direct, shall be executed by the said Executive Engineer, who for this purpose shall exercise the same powers as if he were executing a work for the Government, and shall have control over all officers and servants of the local board, if any, assisting in the execution of any of the said works.

Works which may be executed by other agency.

(2) All other works shall be executed by such agency and subject to such supervision as the local board at whose cost any such work is to be executed thinks fit: provided that any such work shall be executed by the Government Executive Engineer of the district in the manner described in sub-section (1) if the said board communicates a desire to that effect.

Payment of Government establishment employed by Government Executive Engineer.

(3) When any work is executed under this section by a Government Executive Engineer either wholly or partly with the aid of his own Government establishment, such charge shall be payable on account of such establishment by the local board at whose cost the work is being executed as shall be agreed upon between such board and the said Executive Engineer: provided that no charge shall in any case be made on account of the services of the Executive Engineer.

Rao Saheb D. P. DESAI (Kaira District): Sir, I move that

"In sub-clause (2), clause 45, remove all the words beginning with 'such' and ending with 'fit' and substitute the following words instead:—

'All other works shall be executed by the local board agency'."

My reason for this amendment is that under clause 119 taluka local boards are not allowed to employ officials and servants. All officials and servants are

[Rao Saheb D. P. Desai]

to be engaged by the district local board alone and it is the district local board which is to be responsible for the efficiency not only of the officials and servants employed for its own duties but the duties of the taluka local boards also. And for the efficient discharge of the taluka local boards' duties and works the district local boards are to employ these officials under the present clause. This means that all other works shall be executed under the supervision of the officials of the district local boards. Under the clause as it stands taluka local boards may hold that as a certain work is to be executed at its own cost and subject to such supervision as it deems proper they might employ engineers or supervisors or servants and under such supervision they may execute the work. Here it conflicts with clause 119 and that is the reason why I bring in this amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, if you omit these words the taluka local boards can only execute their own works by their own agency. Otherwise as the clause stands at present they can get their works executed by contractors under the supervision of the officers of the district local boards. They can either get the works executed by the contractors or can execute them through local board officers. So both ways are left open to them. If we delete these words the boards can only execute their works by their own agency and not through contractors under their supervision.

The Honourable the PRESIDENT: I do not see the distinction between the clause as it stands and the amendment proposed. The local board agency is such agency as the local board appoints.

Rao Saheb D. P. DESAI: I will explain that, Sir. The words "local board" are meant to mean in contra-distinction to the public works agency for the works that are to be performed by the local boards.

The Honourable the PRESIDENT: The words "local board agency" are too comprehensive. As they are not defined in this bill or in any other law, they may be interpreted so as to mean anything or perhaps nothing at all. I therefore rule the amendment out of order.

Clause ordered to stand part of the bill.

Clause 46 (*Joint committees of two or more local bodies*).

(1) A district local board may, from time to time, concur with any other district local board or with any municipality or cantonment committee, or with more than one such local board, municipality or committee

(*a*) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee; and

(*b*) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies; and

(*c*) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence relating to the purpose for which the committee is appointed.

(2) Where any local authority has requested the concurrence of any other local authority under the provisions of sub-section (*1*) in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit, requiring the concurrence of such other local authority in the matter aforesaid and such other local authority shall comply with such orders.

(3) If any difference of opinion arises between local bodies, having concurred in any action under sub-section (*1*) or (*2*) in respect of any matter arising out of such action the decision thereupon of the Commissioner, if the local bodies are in one division and of the Government, if they are in different divisions, shall be final.

Rao Saheb D. P. DESAI (Kaira District): Sir, I beg to move that—

"At the end of sub-clause (1) (c) of clause 46, add a new sub-clause (d) as follows, namely:—
"(d) and notwithstanding anything contained in sub-section (b) of section 39 of the Act III of 1904; in entering into an agreement regarding the levy of octroi duty or terminal tax whereby such duties or taxes respectively leviable by the local authorities so contracting may be levied together instead of separately within their respective areas.'"

There are municipal areas in districts which enjoy the power of levying terminal and other taxes and you have given the same powers to the district local board in this bill. To guard against conflict and possible hardships I have proposed the above addition. Though the clause as it is worded provides for it, there is still some scope for doubt and hence I move my amendment. Now, Sir, take the case of the Nadiad municipality. That municipality is levying a terminal tax, and it enjoys the whole of the tax, but the articles taxed are consumed all over the district and not within the area of the municipality alone. So, in justice the local board authorities should have a share of the tax. If this clause were not added, then what would local boards do? They will levy their own octroi duties, and if they do it they will draw a cordon round the municipal area and it will cause unnecessary hardship and annoyance to the public. Again in the Municipal Act there is no mention of a municipality coming to some sort of agreement with the local board in these matters. Therefore, I have said "notwithstanding anything contained in sub-section (b) of section 39 of Act III of 1901" and if this were not done the municipalities might say that these matters are not provided for in the Municipal Act and therefore they do not want to come to any agreement with the local boards. Thus they may not enter into agreement with the local boards at all. No doubt the provision has been introduced by the select committee:

"Where any local authority has requested the concurrence of any other local authority under the provisions of sub-section (1) in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders...."

But the difficulty is this: there is no provision in the Municipal Act and therefore municipalities are not going to be bound by what is contained in the Local Boards Act. In order to be more clear and precise I have introduced this clause.

The Honourable the PRESIDENT: Now, what is this Act III of 1901?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The District Municipal Act.

The Honourable the PRESIDENT: What does section 39 (b) provide?

Rao Saheb D. P. DESAI: The section provides that a municipality may enter into agreement with another municipality, cantonment authority or committee appointed for an area notified, etc., but does not mention "local boards".

The Honourable the PRESIDENT: The honourable member's amendment says "notwithstanding anything contained" etc. Does he want to abrogate that section in the Municipal Act for the purposes of this bill?

Rao Saheb D. P. DESAI: My idea is that if a local board were to approach a municipality to come to some sort of agreement under this section they may say that a similar section in the District Municipal Act does not contain any reference to local boards, and therefore they will not enter into any agreement with the local boards.

The Honourable the PRESIDENT: I will allow the discussion, but I shall have to decide the question whether the amendment touches any Act.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, may I rise for the purpose of an explanation? This clause is covered by clause 46 (*1*) (*a*) and clause 46 (*2*). Clause 46 (*1*) (*a*) allows all local bodies by their joint consent to appoint a joint committee "for any purpose", which includes the levy of octroi and everything. Suppose one of the bodies requests the concurrence of any other local authority for the levy of octroi or terminal tax under section 46 (*1*), and the other local authority refuses, then clause 46 (*2*) provides that the Commissioner may pass orders in the matter. So, power is given to the Commissioner and the Commissioner can force the other local body to enter into an agreement.

The Honourable the PRESIDENT: Yes, it is provided for. I think the amendment is unnecessary.

Rao Saheb D. P. DESAI: But it leaves it to the discretion of the Commissioner.

The Honourable the PRESIDENT: This requires very careful handling. Clause 46 (*1*) begins: "A district local board may, from time to time, concur with any other local authority or with any municipality". So, it includes a municipality: why is your amendment necessary then?

Rao Saheb D. P. DESAI: Because a particular municipality may say that as district local boards are not mentioned in their own Act they are not bound to abide by the decision of the Commissioner or of the district local board itself in regard to this matter.

The Honourable the PRESIDENT: The answer to it is: although the District Municipal Act does not authorise a municipality to go to a district local board, the district local board is empowered to go to the municipality and initiate negotiations with the municipality. That Act does not allow municipalities the power of initiation, but gives them the power of entering into a contract at the invitation of a local board. There is no inconsistency, and therefore I cannot allow that Act to be touched. The amendment is out of order. Then, there is another thing. The municipalities have no power to invite a district local board to attend, but they themselves can attend if the district local board invites. Under the Local Boards Bill the invitation must be by the local board only. Therefore it would be contrary to the scope of this bill to abrogate anything in the District Municipal Act.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I move the following amendment:

"In clause 46, sub-clause (*2*), after the words 'such other local authority' where they occur for a second time, insert the words 'not being a cantonment committee'."

My reason for moving this amendment is that cantonments are a Central department under the direct jurisdiction of the Central Government. In this case if the clause is allowed to stand as it is the result will be that when a cantonment authority declines to enter into any agreement with other local bodies, then the Commissioner, under the powers of this clause, can force it, but the Commissioner is a provincial officer and cantonments are directly under the jurisdiction of the Central Government. Therefore I commend this amendment to the Council.

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 47 (*Incorporation of local boards*) ordered to stand part of the bill.

Clause 48 (*Vesting of future local works*) ordered to stand part of the bill.

Clause 49 (*Power to decide whether property vests in taluka or district board*) ordered to stand part of the bill.

Clause 50 (*Obligatory duties*).

"It shall be the duty of local boards, so far as the local fund at their disposal will allow, to make adequate provision for the areas respectively subject to their authority in regard to the following matters, namely;—

(*a*) the construction of roads and other means of communication and the maintenance and repair of all roads and other means of communication vesting in them;

(*b*) the construction and repair of hospitals, dispensaries, markets, dharmshalas and other public buildings, and the visiting, management and maintenance of these institutions;

(*c*) the construction and repair of public tanks, wells and water-works, the supply of water from them and from other sources, and the construction and maintenance of works for the preservation of water for drinking and cooking purposes from pollution;

(*d*) the provision of suitable accommodation for, the visiting and maintenance of, and the training of teachers for, primary schools, and the general development and extension of primary education;

(*e*) public vaccination, and sanitary works and measures necessary for the public health;

(*f*) the planting and preservation of trees by the side or in the vicinity of roads vesting in such boards;

(*g*) the maintenance of any property vesting in them; and

(*h*) the payment at such rates and subject to such conditions as the Government from time to time by general or special order may direct of the expense of maintenance and treatment in any institution which the Government declares by notification to be suitable for such purpose, either within or without the district, and other necessary expenses, of persons undergoing anti-rabic treatment as indigent persons according to the rules applicable to such institutions, and proceeding to and returning from such institutions; and local boards may at their discretion provide out of the said fund for the following matters, namely:—

Discretionary powers of expenditure.

(*i*) the payment to members of the board of expenses incurred in travelling for the purpose of the business of the board, in accordance with rules made in this behalf under clause (*d*) of section 133, provided that no such payment shall be made to a salaried servant of the Government;

(*j*) the establishment and maintenance of model farms, the acclimatization of exotics, the importation and distribution of superior kinds of seed, the improvement of the breed of cattle and horses, the introduction and preservation of fish and the advancement and improvement of agriculture and local industries;

(*k*) the establishment and maintenance of relief and local relief works in time of famine or scarcity;

(*l*) educational objects other than those set forth in clause (*d*) of this section;

(*m*) the construction, management and maintenance of light railways and tramways;

(*n*) any other local works or measures likely to promote the health, safety, comfort or convenience of the public; and

(*o*) with the previous concurrence of the Collector, any public reception, ceremony, entertainment or exhibition."

Rao Saheb D. P. DESAI (Kaira District): Sir, the honourable member for Ahmedabad city, Rao Saheb Harilal Desai, has also given notice of an amendment. The matter of training of teachers is rather a provincial matter as it concerns more than one district. In the old Act of course such a provision appears but I see no reason why it should be repeated in this new bill. Under the new Compulsory Education Act local boards will not be so much concerned with higher kind of education as with elementary education in their districts and only a few schools will have to be maintained which will have to employ fully trained teachers. Besides if every local body were to train its now teachers in all the standards, then it would be a costly affair beyond the capacity of a local authority and so I believe that it should be considered as a pro-

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vincial subject altogether, especially as only one training college for each division is all that is necessary, that is one college for six or seven districts. It should therefore be more the duty of Government to undertake the training of teachers and therefore I propose the following amendment:

"In clause 50, sub-clause (*d*), leave out the words 'and the training of teachers for' after the words 'maintenance of' and before the words 'primary schools'."

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, the training of teachers of primary schools under the old Act is one of the obligatory duties of local boards. We have also made a similar provision in the bill. The fear in the mind of honourable member who proposes this amendment seems to be that Government wants to throw the burden of maintaining training colleges on local bodies. It is not so. I can assure honourable members that training colleges will be maintained by Government, but the persons that the local bodies send for training will be paid stipends by the local bodies. If the amendment is accepted, then the result will be that district local boards will never employ qualified teachers.

The Honourable Dr. R. P. PARANJPYE: May I explain, Sir? It is intended that local bodies should have an adequate supply of trained teachers. The establishment and maintenance of training institutions will be continued by Government itself but, in order that these institutions should have a proper number of pupils who are willing to serve local bodies, they might have to pay stipends. At present stipends to teachers who attend training colleges are paid by local bodies. It is intended that such stipends should continue to be paid by local bodies. Of course it may happen that without payment of stipends a sufficient number of pupils may not be attracted to training colleges. If on the other hand the number of students in training colleges is large enough, local bodies need not have to pay stipends, in which case their liability for payment of stipends will disappear. If trained teachers cannot be obtained in the market without their being paid stipends, obviously local bodies, in order to have a proper percentage of pupils under training, might have to give stipends in order that they will be able to have a proper supply and it is for this purpose that the training of teachers must be an obligatory duty of the local bodies.

The Honourable the PRESIDENT: I am not interfering with the merits of the question, but if the Honourable Minister says that those words are introduced simply for the purpose of compelling a local board to give stipends to pupils who must become trained teachers and do not include the supply of training colleges or schools, the words as they stand are wide enough to impose upon the local boards the obligation of maintaining a training school or college.

The Honourable Dr. R. P. PARANJPYE: But those words are in the present Act already.

The Honourable the PRESIDENT: That does not matter. I say that the words are more comprehensive than need be. The training of teachers means that a training school or college must be maintained.

Sardar Khan Bahadur A. M. DALAL (Broach District): I think it would be better if the words "training of teachers" are clearly explained in the bill. I think we should make the language of the clause clearer.

The Honourable the PRESIDENT: Perhaps the Honourable Minister in charge would like to confer with the legal members of the Government as it is a question of legal interpretation.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I think, Sir, these words would be suitable:

"and payment of stipends to teachers during the period of their training if necessary."

The Honourable the PRESIDENT: Yes; I think that is all right. But, before the Honourable Minister's amendment can be taken up, Rao Saheb Dadubhai Desai's amendment has to be disposed of.

Rao Saheb D. P. DESAI (Kaira District): I ask for leave to withdraw it, Sir.

Amendment by leave withdrawn.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I move the following amendment, Sir:

"In sub-clause (*d*) of clause 50, line 13, after the word 'and', add the following words:—the payment, if necessary, of stipends to persons qualifying as teachers of primary schools during the period of such training'."

The Honourable Dr. R. P. PARANJPYE: The words "and the training of teachers for" in lines 12 and 13 of sub-clause (*d*) of clause 50 will have to be left out, Sir.

The Honourable the PRESIDENT: Yes. I will put that first.

Question put: that the words "and the training of teachers for" in lines 12 and 13 of sub-clause (*d*) of clause 50 be left out,
and agreed to.

Mr. S. J. MURPHY: Sir, I move that:

"The word 'and' should be added after the words 'accommodation for' in line 12."

Question put that the word 'and' be added after the words 'accommodation for' in line 12 of clause 50 (*d*),
and agreed to.

The Honourable the PRESIDENT: Now, with regard to the amendment about the training of teachers moved by the Honourable Minister, I put it in this way:

"That after the words 'primary schools' in clause 50 (*d*), line 13, the following be added:

'and the payment, if necessary, of stipends to persons qualifying as teachers of primary schools during the period of their training for such qualification'."

Question put and agreed to.

Rao Saheb D. P. DESAI (Kaira District): Mr. President, the amendment that stands in my name is as follows:

"In clause 50 (*e*), leave out the words 'public vaccination'."

Major-General W. E. JENNINGS: Sir, I wish to point out that if the words 'public vaccination' are deleted, the clause will read:

"(*e*) and sanitary works and measures necessary for the public health:"

That does not make any sense.

The Honourable the PRESIDENT: The amendment must be:

"Leave out the words 'public vaccination and'."

Rao Saheb D. P. DESAI: Sir, this is another obligatory duty that has somehow or other been thrust on the local boards. In fact, public vaccination is not the concern of a local body, and, as I recently told the House, at the first reading of the bill, public vaccination is purely a provincial matter. It has

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not been a local board affair, or a county council affair, in England even. Why should local boards be obliged to bear that responsibility in this country? In England this duty is performed by highly qualified men, that is, technical men, and under the local government board, inspectors are appointed to supervise the work, and some sort of fee is charged. In this country.....

Mr. O. ROTHFELD: May I ask the honourable member to quote his authority for the statement that county councils in England.....

The Honourable the PRESIDENT: Both the honourable members are standing. That is not in order.

Rao Saheb D. P. DESAI: Since he has asked for the authority, I will give it. In his letter No. 1031, dated the 2nd of March 1914, Colonel Hutchison wrote to the Government of Bombay:

"The ideal has not yet been reached in England. There all arrangements for vaccination are made by the poor law authorities. It is important to know that in England, the home of local self-government, the inspection of public vaccination is carried out by the inspecting medical officers under the local Government board, and the distribution of rewards depends on such reports."

This shows that the duty does not fall on the county councils but on the poor law authorities.

The Honourable the PRESIDENT: But that also is a local authority.

Rao Saheb D. P. DESAI: But our district local board is the county council of England. Further on, Colonel Hutchison admits that it is very doubtful if even in these days sufficiently qualified men are obtainable. In the first place, Colonel Hutchison says in his letter that the operation of vaccination is a very technical operation and requires to be looked after not by any and every person who may be employed after little training but by medical men. The point is that surgical cleanliness and skill are the chief requirements in this operation, because it is likely that deaths may occur if they are ignored. So if we entrust this duty of vaccination to the local boards, the death rate from vaccination will be greater than at present for want of sufficient funds for the employment of qualified operators and inspectors. The Government are therefore the proper person to undertake such a serious responsibility.

(At this stage the Honourable the President withdrew and Dr. K. E. Dadachanji occupied the Chair.)

As regards the number of deaths from this cause, I am unable to state what it is in this country owing to inaccurate statistics but can say that as it is 53 per year in England it must be far greater in this country, where the operation is performed not by medical men as in that country.

The CHAIRMAN: Will the honourable member please address the Chair.

Rao Saheb D. P. DESAI: You know very well, Sir, that as the death rate in England is about 53 per year, it must be far greater in this country where the operators are not medical men.

(At this stage the Honourable the President resumed the Chair.)

Major-General W. E. JENNINGS: May I rise to a point of order? Relieving the local board of vaccination does not absolve it from undertaking measures necessary for the public health. Such measures include vaccination.

The Honourable the PRESIDENT: Whether vaccination is essential for public health is a matter of opinion. That is not a point of order.

Rao Saheb D. P. DESAI: In England vaccination is made by qualified men, and by those who are specially trained for it under the immediate supervision of the Sanitary Department. Here vaccination is being done by men possessing no medical and surgical qualification, or diplomas, but by quacks and untrained people. I therefore do not understand why this responsibility should be thrust on local bodies, who will never be in a position to superintend thoroughly. If this responsibility is thrown on the local bodies, my honourable friend the Surgeon General may write to the Minister that the death rate from vaccination in a particular district is enormous, and that the district local board must be asked to be more careful as the child mortality is ever on the increase and so on. The Honourable Minister will thereupon inform the board that if it does not mend matters in this direction the Government will get the duty performed satisfactorily at the cost of the board. The board will thus indirectly be compelled to devote larger amounts to this responsibility beyond its means. The public opinion too will raise its cry against the board. These are the reasons why I think that this duty should be performed by the provincial Government and not by local bodies. As regards the surgical efficiency I shall read a paragraph from the same authority. Dr. Acland says:

"To secure successful vaccination cleanliness in the surgical sense and the postponement of vaccination on all feeble cachectic and on those who are suffering from erruptions are essential"

May I inquire whether such cleanliness and diagnosis is to be expected from ordinary vaccinators employed even by Government at present? If not how can one expect it from those employed by local boards?

These are the few remarks that I have to offer to show that it is the duty of the local Government and not the local body to look after vaccination. The Sanitary Department might very well look into it. Again if it be argued that local boards might pay for and own the service and Government will control it. To that argument I might reply that the Decentralization Commission distinctly says that the Government control should be removed from all the duties for which a local board pays, and that such deparments should be taken over by Government and paid from provincial funds. From this point of view I think the responsibility should be transferred from the local bodies to the Provincial Government and so I think that the central authority should be in charge of this duty, and not the local body.

Mr. A. N. SURVE (Bombay City, North): Sir, I rise to support the amendment. My reasons are that vaccination is not compulsory in all the districts of this Presidency; it is optional. Therefore, unless you make it compulsory there will be some districts which will have to incur heavy cost on account of vaccination and on other districts where it is not compulsory the burden of cost may be very light almost negligible. Thus there will be inequality of treatment. The second reason is that here vaccination is done by ordinary men without any educational qualification. It is not advisable to leave the children to the tender mercy of unqualified vaccinators. Lastly, the advanced medical opinion is condemning vaccination as injurious to health. For these three reasons, I beg to say that the district local boards should be exempted from this obligatory duty.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, I must oppose the amendment. I do not know what powers he wants. Public health in local areas is a very important matter, and in public health vaccination plays the most prominent part. There is no district in the Presidency which is free from this epidemic in any year. It ought to be the duty of the

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local body responsible for the health of the people in its area to undertake this duty to remove the existing defects, and to avoid several deaths, which will not occur if proper care in vaccinating children is undertaken. May I ask whether it is not within his knowledge that on account of the departmental limitations sometimes smallpox goes on for days and months together? Before any steps are taken by the department, does he wish the same state of things to go on, or is he not able to come forward and say that we are willing to shoulder the responsibility in making this department work, which has now reached almost to perfection in reducing as many deaths as possible from this epidemic? Now in Kaira curiously enough the honourable mover states that for this process of vaccination to be done in the best possible manner will require a large amount. I do not know what he exactly means, but I do know that the department has been working in various areas—the so-called Vaccination Department. The lymph is now perfected in vaccine which is manufactured in one manufactory and is distributed in as clean and as fresh a state as possible. Now I do not know what my honourable friend's objection is. If his objection is that the local boards are mulcted in this process simply because they have got no funds, then the clause itself meets that argument, namely that the responsibility lies on the local boards themselves as far as the funds permit. If you find that the local board funds will not allow expenditure on this account, I do not think any department can take the local board to task. But if the local boards get the control of the department and if you feel the ground and say that you are in a position to give timely help to the community at large, is it a duty which ought to be shirked and given up? I am not for the proposition and I therefore oppose the amendment.

Major General W. E. JENNINGS: Sir, I move for a closure.

The Honourable the PRESIDENT: I accept the closure.

Rao Saheb D. P. DESAI (Kaira District): Sir, I know that there are certain districts which do control their own vaccination and the local boards carry out these duties—I do not know whether successfully as statistics of deaths from various diseases are not reliable and hence I cannot say how many deaths occur from vaccination—but I would just ask the honourable member from Ahmednagar whether he knows the rate of deaths from vaccination of children after the control of vaccination has been handed over to the local boards. I should think that as the local boards employ neither the men experienced in this science nor those experienced in modern science the death rate must be heavier.

The Honourable the PRESIDENT: That is repeating what was said in the opening speech.

Rao Saheb D. P. DESAI: As regards shouldering the responsibility the honourable member for Ahmednagar thought that I was shirking the responsibility. I must admit that I was shirking the responsibility because I rather thought that where there was a question of life and death of children I would rather shirk that responsibility than undertake it and allow the deaths of so many children through negligence or inability. With the knowledge of vaccination administration as it is carried by the Government controlled department, I cannot but remark that the local boards will not be able to manage such a technical work themselves, because as it is, it is not so well done as it should be though supervised by scientific men. That is the reason why I bring in this amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, as regards control, the honourable member from Ahmednagar has told the House that in some cases Government have actualy transferred the control to some of the local bodies. In regard to the Karachi municipality there was a bill before this House last session. I say that vaccination ought to be done by the local boards because it is in the interests of the people, who are taxed by them. I think the only object of the amendment is to shirk the duty and nothing else, and it is an important duty which the local boards ought to perform. Suppose this amendment is accepted then vaccination will not be done by the local boards and the people who pay taxes will suffer. I hope this House will throw out this amendment.

Amendment negatived.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, I beg to move my amendment as follows:

"In sub-clause (*h*) of clause 50, omit the words 'the payment at such rates and subject to such conditions as the Government from time to time by general or special order may direct of the expense of maintenance and treatment in any institution'."

Mr. C. M. GANDHI: You will have to take away one word more—"and".

The Honourable Dr. R. P. PARANJPYE: If this motion is passed, then the word "and" at the end of clause (*g*) will have only to be transferred to the end of clause (*f*).

The Honourable the PRESIDENT: Then the amendment will run:

In sub-clause (*h*) of clause 50, all words beginning with "the payment at such rates" in line 20 down to the words "institutions; and" in line 22 be left out.

Sardar Khan Bahadur A. M. DALAL: Sir, I beg to move the amendment as altered by you. This clause imposes on local boards the obligation of paying for the maintenance and treatment at Pasteur institutes of persons bitten by mad dogs. This is a new obligation thrown upon the local boards. Hitherto the boards had not this obligation, and there is no reason why in this new bill this responsibility should be thrown on the district local boards. Even with the new taxes given to the district local boards they have shouldered too many responsibilities; their financial condition is verging on bankruptcy and there is no reason why these new duties should be put on local boards. I therefore hope this Council will accept the amendment.

Mr. C. M. GANDHI (Surat City): I support the amendment, Sir, and say that the obligation thrown upon the district local boards by this clause is rather vague. It asks them to make "payment at such rates and subject to such conditions as Government from time to time by general or special order may direct the expense of maintenance, treatment," etc. So, really speaking, we do not know what is the amount of responsibility we are asked to shoulder. When the cost of the obligation is so vague, I think this Council will not be well advised to accept that responsibility—even with the eloquent appeal of my honourable friend from Ahmednagar.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Mr. President, I think that is due to want of knowledge on the part of the honourable member from Surat. His knowledge is not up-to-date. You will find that these Pasteur institutes are being opened at many centres. What the section means is that the cost of maintenance and treatment at the Pasteur institutes of persons within the district local board area who may have the misfortune of being bitten by a mad dog should be borne by the board. The responsibility s borne at present, and as a very old member of the board I know we had to

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spend not more than a couple of hundred rupees during the last twenty years. However, what is intended to be conveyed is the responsibility that when such a thing happens in their area they should see that the man is given help. The expenditure was much more in old days, because in old days these people had to be sent to Kasauli or Coonoor. But now, the expenditure will be very much less, because these people will have to be sent only to Bombay, Ahmednagar, Ahmedabad, or Belgaum—not Surat yet, but you may have it as soon as possible.

An Honourable MEMBER: I move a closure.

The Honourable the PRESIDENT: I accept the closure.

Sardar Khan Bahadur A. M. DALAL: I have nothing to add.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, this responsibility is not newly thrown on the local boards under this bill. Even at present these local boards are making contributions for this purpose. Formerly we had these institutes only at Kasauli and Coonoor, but now we are going to have them at about half a dozen places in the Presidency. The present system of contribution affects the financial position of the local boards much more than the actual charges for maintenance and treatment contemplated by this clause. There may be only one man bitten in five or six years, and under this clause, the local boards will have to pay only his expenses instead of their present contributions. I think it is the duty of the local boards to pay for the maintenance and treatment of these persons at the institutes.

Amendment negatived.

The Honourable the PRESIDENT: Now, there is Rao Saheb Desai's amendment:

That in clause 50, sub-clause (*h*) line 26 insert the following words between "may" and "at": "take into consideration matters of local interest and".

I have already ruled it out.

Rao Saheb D. P. DESAI: Sir, I would like to offer some remarks in that connection. Clause 133, that is the rule-making clause of this bill, leaves ample freedom to Government to define the words. It says that Government may make rules "generally, for the guidance of local boards and Government officers, in all matters connected with the administration of this Act and not therein specially provided for." What is vague may be provided for.

The Honourable the PRESIDENT: That does not mean that the power of Government is unlimited. 'Local boards' is a clear term, and the functions of the local boards are defined. Government may not travel beyond those limits.

Mr. B. G. PAHALAJANI: These words were taken from the French Local Boards Act, Sir.

Rao Saheb D. P. DESAI: In Government orders we find the term "matters of local interest."

The Honourable the PRESIDENT: "Local interests" must be defined to give it a precise and definite meaning or else what is a matter of local interest remains an open question of opinion, and I have already ruled, following the sound practice of legislation in the House of Commons, as ruled by the Chair there, that matters of opinion shall not go into an Act of Parliament. I cannot allow those vague words to go into this Act.

[The President]

The next amendment to clause 50, sub-clause (*m*), by the honourable member for Kaira is :

"In clause 50, after sub-clause (*m*) add the following sub-clause :—
'(*m-A*) the construction, maintenance, management and improvement of irrigation tanks not in the charge of the Irrigation Department at the commencement of this Act and erection, management and maintenance of irrigation plants.'"

I cannot understand what that means. Are there any irrigation tanks not in charge of the Irrigation Department ?

Rao Saheb D. P. DESAI : There are in every district small irrigation tanks, in charge of the Revenue Department. . . . .

The Honourable the PRESIDENT : Irrigation does not come within the purview of local boards. Irrigation is connected with cultivation of land and therefore that is entirely outside the ambit of this Local Boards Bill. I rule this amendment out of order.

Rao Saheb D. P. DESAI : The Punjab Act allows local boards to construct, control and manage irrigation works.

The Honourable the PRESIDENT : The Punjab Act, when it was introduced as a bill, perhaps contained it and imported that principle ; it is a question of principle whether the powers of local boards should be extended or not beyond what they were and that is a question affecting the principle and ought to have been discussed at the first reading.

Mr. C. M. GANDHI : In clause (*j*) we are giving powers to local boards for improvement of agriculture and so on.

The Honourable the PRESIDENT : That comes at the end. Irrigation tanks do not come within that. If any power of a district local board or a taluka board is to be extended beyond what it has been hitherto, it must be referred to and discussed at the first reading, so that when the Council passes the first reading, the select committee may know and at the second reading I may know how far the first reading has passed subject to certain questions of principle ; otherwise we shall get into confusion. I rule that out of order.

Clause, as amended, ordered to stand part of the bill.

Clause 51 (*Relative duties of taluka and district local boards*) ordered to stand part of the bill.

Clause 52 (*power to enter and inspect, etc., buildings*) :

The president of the district local board, or any person authorized by the said board in this behalf, may at any time between sunrise and sunset, on giving notice in the manner hereinafter provided, enter into and inspect all buildings and lands, and by written notice direct that all or any part thereof shall be cleansed, cleared or otherwise put in a proper state for sanitary reasons.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars) : Sir, I move

"That clause 52 be deleted."

I think that the clause is not workable or, even if workable at all, it will work harshly on the rural population. When we read this clause with clause 63 (*d*) which provides for the serving of notices, it will be seen that a notice can be served even by pasting it to the door of the house. Looking to the agricultural population and the way they live and maintain themselves, we find that at times for a number of days they go out of their places of residence. During those days they lock up their premises. Perhaps some vegetation may grow inside the houses and perhaps on account of rain, water may stagnate inside the courtyard and some one who may not be on friendly terms with the man, may carry information to the district local board or to the taluka local board and the president or his deputy may go and order a notice to be pasted to the door of the house. The result will be that the house will

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be broken open. Who will be responsible to the owner for any damage that may be caused to the belongings of that man? It may be said that the patel or talati may take charge of the house when it is opened but there is absolutely no provision to say that the things should be cared for or that his house should be locked up again. I think under the circumstances this clause will work great hardship and ought to be deleted.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, I support the deletion of this clause. I fail to understand why all these provisions have been incorporated into this bill and loaded the bill with provisions which we all know to be impracticable and impossible of working. They will tend only to the harassment of the poor people. The district local board has not got one or two or three or four villages to supervise. It sometimes has hundreds and thousands of villages. I know that a health officer has been appointed and that a health committee has been sanctioned, but even in spite of that it will be practically impossible for district local boards to enforce these enactments. If the sanitation of villages requires to be looked after either on account of the size or otherwise, it ought always to be the better course for the district local boards to entrust these powers to the village panchayats. By the Village Panchayats Act the district local boards can frame rules, but the execution and the operation of those rules lie with the panchayats. The local boards cannot do anything in this matter. Therefore, this provision will be obsolete and will not be enforced. I therefore request that it should be deleted. With these remarks I resume my seat.

Dewan Bahadur K. R. GODBOLE (Poona District): Mr. President, I also oppose this clause. In speaking on the second reading of this bill I have already given to this Council my arguments for the opposition. I agree with the previous speakers in thinking that this provision and the succeeding provisions of this chapter on sanitation will inflict great hardships on the rural population. The number of villages in districts runs into hundreds, varying between 800 and 1,200, and an average large district consists of 1,000 villages, and it is an impossible task for the district local board to look after the sanitation of these villages by its own agency and by its own officers. Village sanitation must be entrusted to local committees. Fortunately, this Presidency has got local organizations of this description in the shape of the new village panchayats. The proper course in the case of villages is to entrust the sanitation of the villages to local panchayats. In the case of very small villages consisting of 20 or 30 houses there is no organization for looking after sanitation. Organisations for these hamlets are hardly necessary. The people there work in the open air for nearly three-fourths of the day and the sun and nature take care of village sanitation in such areas. In the larger villages where there are streets and a large number of houses congregating in the village site, sanitary measures are necessary and those measures ought to be entrusted to local bodies instead of the district local board attempting to do the work themselves by a large staff. The large staff that will be necessary will be beyond the financial resources of local boards. The Village Panchayat Act deals with exactly the same matters and it effectively deals with them and gives us an agency for looking after sanitation from day to day. It seems to me that the select committee have ignored the existence of this Village Panchayat Act when they dealt with this chapter on sanitary matters. If they had taken note of what the Village Panchayat Act provides, they would have seen that everything

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that is provided for in this chapter is provided for in the Village Panchayat Act by a much simpler agency, which would be constantly looking after the sanitation in the village. I therefore think that this clause should be omitted and also the succeeding clauses of this chapter.

Rao Bahadur G. K. CHITALE (Ahmednagar District): I wish to speak, Sir, in favour of the retention of this clause. May I point out to this House that so far the arguments of the opposition are for entrusting these duties to the villages but not to local bodies which control them ? That is to say, under the present Act, village panchayats and taluka local boards are controlled by the district local board. It is conceded that the duties will be entrusted to village panchayats. But whether a particular duty is badly done or well done or not done at all is another matter. I say, Sir, that it is inconsistent. I do not see the slightest difficulty in the process. What is conceded is this. The powers are there and the agencies are also there if you only see it, namely that the president of the district local board or any person authorised by the board in this behalf can exercise the powers. Now you have got a chairman as the executive authority under the Village Panchayat Act. For sanitary matters village panchayats are established, and they are subject to the control of the district local board. It might entrust the same duty to the vice-president or the president of the taluka local board. So the argument that the district local board will require a big staff has no foundation at all.

Then again, I want to bring to the notice of the Council another thing. Suppose the district local board finds that a particular village is infected with plague, or cholera or any other epidemic. Now, is there any local body with power to act on the spot as promptly as possible ? I do not know of any section which gives power to the district local board to take prompt steps. Now, is it or is it not to be conceded that in such a case—which very often comes to our notice—there should be power ? Particular villages are infected, and then the first duty of the district local board is to stamp out the plague as early as possible. There is no doubt great difficulty in the matter, but if the presidents or the executive heads are to rise up to the occasion, I think it is a duty which they ought to shoulder and do it better. Now, if they have not got the power, the president of a district local board or any other authority under him—either the village panchayat or the taluka local board—will not be able to do it. The village panchayats or the taluka local board have not got the funds or the same resources as those of the higher body. In fact, in the case of epidemic diseases they will not be able to do anything; while, on the other hand, the district local board might perhaps be able to take measures in time and save a large number of lives. Under those circumstances, Sir, there are two principles involved. One is this, that when we are legislating and trying to give more powers to local bodies, is it or is it not absolutely necessary that those bodies should be armed with powers of all kinds in sanitary matters ? Whether all will use those powers in the most efficient way or not is another matter. But there must be that power. How that power can be exercised I have tried to show. I have tried to show that it is not necessarily executed through a special staff, but through other institutions which are at present under the control of the district local boards. Under those circumstances, Sir, I think the provisions of this clause ought to remain.

Mr. G. A. THOMAS: I move the closure.

The Honourable the PRESIDENT: I accept the closure.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I have nothing to add.

Amendment negatived.

Clause ordered to stand part of the bill.

Clause 53 (*Filthy buildings, etc.*) ordered to stand part of the bill.

Clause 54 (*Powers and duties with regard to sources of water supply*).

The president of the district local board or any person authorised by the said board in this behalf may at any time by written notice require that the owner of, or any person who has control over, any well, stream, channel, tank, or other source of water-supply, shall, whether it is private property or not,

(*a*) if the water is used for drinking,

(*i*) keep and maintain any such source of water-supply, other than a stream, in good repair, or

(*ii*) within a reasonable time to be specified in the notice, cleanse any such source of water-supply from silt, refuse and decaying vegetation, or

(*iii*) in such manner as the board directs, protect any such source of water-supply from pollution by surface drainage, or

(*iv*) desist from using and from permitting others to use for drinking purposes any such source of water-supply, which not being a stream in its natural flow, is in the opinion of the board unfit for drinking, or

(*v*) if notwithstanding any such notice under sub-clause (*iv*) such use continues and cannot in the opinion of the board be otherwise prevented, close, either temporarily or permanently, or fill up or enclose or fence in such manner as the board considers sufficient to prevent such use, such source of water-supply, or

(*vi*) drain off or otherwise remove from any such source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the board considers is injurious to health or offensive to the neighbourhood;

(*b*) within twenty-four hours of such notice, repair, protect or enclose in such manner as the board may direct or approve, any such source of water-supply, whether used for drinking purposes or not, other than a stream in its natural flow, if for want of sufficient repair, protection or enclosure, such source of water-supply is in the opinion of the board dangerous to the health or safety of the public or of any persons having occasion to use or to pass or approach the same.

The Honourable the PRESIDENT : It is 7 o'clock, but won't the Council sit for just five minutes more ? I am not going to allow discussion, but I want to put clause 54. In regard to this clause 54 there is a notice of an amendment from Sardar Dalal to omit the clause. It is not an amendment, but it is a motion to negative the clause and so is out of order. The Honourable Sardar may oppose and vote against the clause. That will serve his purpose. But Mr. Gandhi has given notice of amendments to leave out certain words of the clause. Now, in order to safeguard those amendments, I am going, first of all, to put the clause in this way, that clause 54 do stand part of the bill, as usual. But in putting it, I will follow the procedure in the House of Commons. The proper way of putting it is this : that the word " The " do stand part of the clause. Then, it leaves all the subsequent portion to be considered. If the word " The " is left out, then the whole clause goes away, and Mr. Gandhi's amendments fall to the ground, but if the Council decides that the word "The" must stand, then Mr. Gandhi's amendments to the rest of the clause may be proposed, as they were not proposed and put.

Question put that the word " The " do stand part of clause 54, and agreed to.

An Honourable MEMBER : Why should the word " The " alone be put ?

The Honourable the PRESIDENT : It is the predominant word. If I say that the whole clause do stand part of the bill, then we will get into this

[The President]

complication: The House in that case comes to the conclusion that the whole clause with all its words should be left; it will not be subject to any amendments because all the words of the clause are affected. But if the word "The" is put, and if it is carried the clause stands, but subject to any modifications in the words following. That is how the speaker in the House of Commons safeguards subsequent amendments and prevents their exclusion. That way of safeguarding amendments to particular words in a clause by putting the first word of the clause on a motion to leave out the whole clause was first suggested by Mr. Parnell to the Speaker. [See Parliamentary Debates, Official Proceedings, 4th Series (1893), Vol. XIV, Column 366 and also 5th Series, Vol. 146, Columns 536 and 560. That will be the procedure which I shall follow from now and hereafter. Mr. Gandhi's amendments will be taken up tomorrow.

The Council is adjourned till 2 p.m., on Tuesday, the 12th December 1922.

*Tuesday, the 12th December 1922.*

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The Council re-assembled at the Town Hall, Bombay, on Tuesday, the 12th December 1922, the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BELL, Mr. R. D.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CADELL, Mr. P. R.
CHAUGULE, Mr. A. P.
CHIKODI, Mr. P. R.
CHITALE, Rao Bahadur G. K.
CLAYTON, Mr. F.
COCKE, Mr. H. G.
COOPER, Khan Bahadur D. B.
CRERAR, Mr. J.
DABHOLKAR, Mr. V. A.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DRAKHAN, WADERO MAHOMED PANAH
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GODBOLE, Dewan Bahadur K. R.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HATCH, Mr. G. W.

Havelivala, Mr. M. A.
Hayward, The Hon'ble Mr. M. H. W.
Hepper, Sir Lawless
Hulkoti, Mr. Channappa Chanvirappa
Jadhav, Mr. B. V.
Jennings, Major-General W. E.
Kalbhor, Mr. G. M.
Kale, Rao Bahadur R. R.
Kambli, Mr. S. T.
Lalbhai Ambaram, Mr.
Lalji Naranji, Mr.
Lawrence, The Hon'ble Mr. H. S.
Ligade, Mr. S. P.
Lory, Mr. F. B. P.
Mansuri, Khan Saheb A. M.
Mead, Mr. P. J.
Mehta, The Hon'ble Mr. C. V.
Mohomed Salahuddin K., Mr.
Motiram, Rao Saheb Rupchand
Murphy, Mr. S. J.
Mutalik, Sardar V. N.
Nelson, Mr. F.
Nilkanth, Rao Bahadur R. M.
Nimbalkar, Mr. K. B.
Pahalajani, Mr. B. G.
Paranjpye, The Hon'ble Dr. R. P.
Patel, Mr. B. P.
Patel, Mr. J. B.
Pawar, Shrimant J. A.
Pradhan, Mr. M. W.
Proes, Mr. E. M.
Rahimtoola, The Hon'ble Sir Ibrahim
Rothfeld, Mr. O.
Saherwala, Khan Saheb I. A.
Salgar, Mr. R. G.
Setalvad, The Hon'ble Sir Chimanlal
Shirras, Mr. G. Findlay
Sindore, Mr. H. N.
Surve, Mr. A. N.
Thakor of Amod, Sardar Naharsinghji
Thomas, Mr. G. A.

TRIVEDI, Mr. G. B.

WOODS, Mr. E. E.

The Honourable the PRESIDENT: Order, order.

(Presentation of Petitions.)

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Mr. President. I beg to present a petition on behalf of the Chief of Patdi. It is addressed to the President of the Legislative Council. The substance of the petition is that Government has entered into a special contract with him with regard to the local fund cess. He desires to draw the attention of the House to those facts, and wants that clauses 93 and 95 of the Local Boards Bill will be so amended as to include that special contract in the bill.

Petition ordered to be laid on the table.

Mr. IBRAHIM S. HAJI (Bombay City): Mr. President, I want to ask Government a question if they consent to it.

The Honourable Mr. M. H. W. HAYWARD: I told the honourable member just now that I will give the President my answer as soon as I am in a position to give it. I think the question is premature.

The Honourable the PRESIDENT: The Honourable the Home Member is considering whether he ought to consent to the question being asked, and he will let me know.

Mr. IBRAHIM S. HAJI: Shall I formally put the question? The House does not know what the question is.

The Honourable the PRESIDENT: The House is not concerned with the question at present. I cannot allow the question, unless the Honourable the Home Member consents, according to the Standing Orders.

The Honourable Mr. M. H. W. HAYWARD: I have already informed the honourable member that I must go through the official routine before I can make official statement.

sta[illegible] Honourable the PRESIDENT: The honourable member is asking [illegible]rmation for some purpose. I suppose that that purpose will be C[illegible] whether the question is put to-day or to-morrow.

W[illegible] IBRAHIM S. HAJI: I understand the Honourable the Home Member or rec[illegible]e an *interim* reply to my question.

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inim[illegible]
m[illegible]

The Honourable Mr. M. H. W. HAYWARD: I have explained to the honourable member that I am ready to do all I can within reason, but if he wants to ask any question contrary to the ordinary Standing Orders he must give me sufficient time to go through the official routine before pledging Government.

The Honourable the PRESIDENT: The Honourable the Home Member is entitled to obtain the requisite information.

## LOCAL BOARDS BILL (BILL No. XVI of 1922).

(Debate on clauses resumed.)

Question proposed that clause 54 do stand part of the bill.

Mr. C. M. GANDHI (Surat City): Mr. President, the amendment which I wish to move is as follows:

"In clause 54 (*a*) (*iii*), (*iv*), (*v*), (*vi*) and (*b*) substitute the words 'president or any person authorized by the board' in place of the word 'board' wherever it occurs."

[Mr. C. M. Gandhi]

Now, I think that the word 'board' was repeated in all these clauses as the original section stood, which ran :

"The local board may at any time by written notice require that the owner of or any person who has control over any wells, stream, channel, tank, or any other source of water supply shall, whether it is private property or not, do certain things."

Then clause (*iii*) goes on to say 'in such manner as the board directs'. Clause (*iv*) says 'if it is in the opinion of the board unfit for drinking,' and so on. The word 'board' was repeated in all these clauses in a line with the original paragraph (*i*) of clause 54. But when an amendment is made to insert the words 'president of the district local board or any person authorised by the said board in this behalf' in place of the words 'local board', then it is but proper to keep up the symmetry of the clause that the other things must be done either by the president or by the person so authorized. Otherwise, it may be that the president or the person authorised may issue notices of one character, and the board may call upon the party to do quite a different thing. That is a thing which I think the legislature never contemplated, nor is the Honourable Minister of that opinion. I think he will agree with me that, in order to preserve the symmetry of the clause and to have the power of carrying out the requirements of the notice in the hands of the same person who issues the notice, it is necessary to accept the amendment which I have proposed.

The Honourable the PRESIDENT : I will put each part of the amendment separately in the exercise of my discretion. That should suit the Council.

Question proposed that in clause 54 (*a*) (*iii*), substitute the words "President or any person authorized by the board" in place of the word "board".

Mr. C. M. GANDHI : May I speak on this ?

The Honourable the PRESIDENT : The honourable member has already spoken.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, may in clause 54 certain powers are given to the president or any person authorized by the board. The amendment, if accepted, will give wider powers to the individual. For the first time we are giving enlarged powers to local bodies and we should not allow them to be delegated to the president or any other person. The clause must be allowed to stand as it is.

Amendment negatived.

Clause ordered to stand part of the bill.

Clause 55 (*Remedy on non-compliance with directions issued*) ordered to stand part of the bill.

Clause 56 (*Power to set apart public springs, etc., for certain purposes*).

(1) The district local board may by public notice, which shall be put up at the spring, tank, well or other place concerned and otherwise as required by this Act, set apart public springs, tanks, wells and other places and parts of public water courses for drinking purposes or for bathing or for washing clothes or animals or for any other purpose calculated to promote the health, cleanliness, comfort or convenience of the inhabitants ; and, with the consent of the owners, may also set aside any private springs, tanks, wells or other places for any of the aforesaid purposes.

Power to prohibit use of water from certain sources.

(2) The district local board may, during epidemics, on receipt of a certificate from any medical officer in the employ of the board or of the Government stating that such action is desirable, summarily by notice prohibit the use of water from any source to which the public have access. Such notice shall be served by putting up a copy thereof near the source of water-supply or by beat of drum, stating the number of days during which such prohibition shall last. The district local board may extend or modify the notice from time to time without the production of a further certificate.

The Honourable the PRESIDENT: Sardar A. M. Dalal has given notice of an amendment to delete the whole clause. It is a mere negative; so, honourable members may speak and vote on the clause, for or against.

Mr. A. N. SURVE (Bombay City, North): My amendment is:

"In clause 56 (1), line 5 after the word 'inhabitants' add the following words 'belonging to all the communities.'"

The Honourable the PRESIDENT: I cannot accept an amendment of that kind.

Mr. A. N. SURVE: The power of setting apart springs and water courses for different classes has been exercised by some of the local boards. In some places it is so arranged that the right of drawing water at particular spots is reserved to some classes.

The Honourable the PRESIDENT: Before I lay the amendment before the House I must know whether it is in order. The words are not aptly chosen to give effect to the intention. The amendment should have to be worded otherwise. What the amendment states is that certain wells are set apart for one community and certain other wells for other communities, that partiality is observed and distinctions are made The amendment wants to do away with all such distinctions. The words which the honourable mover proposes to insert are 'inhabitants belonging to all communities'. This will not do away with that distinction. For carrying out the object in view, the honourable member should have by notice proposed the addition of a proviso in some such form: "Provided that in carrying out the powers under this section, the local board shall make no distinction between one community and another". That he has not done and to allow him to move an amendment in that altered form would be proposing a new amendment, which is not at this stage admissible. Therefore, I must rule this out of order.

Clause ordered to stand part of the bill.

Clause 57 (*Penalty for using places set apart for other purposes*) ordered to stand part of the bill.

Clause 58 (*Abatement of nuisance from foul water*).

When any pool, ditch, tank, pond, well, hole or any waste or stagnant water, or any channel or receptacle of foul water or other offensive or injurious matter, whether the same be within any private enclosure or otherwise, shall appear to the district local board to be likely to prove injurious to the health of the inhabitants or offensive to the neighbourhood, the district local board may by written notice require the owner of the same to cleanse, fill up, drain off or remove the same, or to take such measures as shall, in its opinion, be necessary to abate or remove the nuisance.

The Honourable the PRESIDENT: There is no amendment against this clause.

Sardar V. N. MUTALIK: I oppose it, Sir.

The Honourable the PRESIDENT: The honourable member can speak against it and vote against it.

Sardar V. N MUTALIK (Deccan Sardars and Inamdars): Sir, this clause anticipates full drainage system in villages. It requires the private owner to drain away all water. But where? On a public road or in a stream? Perhaps the president of the district local board from Nagar, an autocratic president of a democratic institution, will require this power in his hands, and will enlighten us on the point. I ask him whether any method was considered to work this clause in a practicable way. This clause will work the greatest hardship upon people.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, the purpose of the clause is not properly understood by the honourable member. What is intended is to give some powers to the district local boards to abate nuisance. Suppose a man in Satara collects foul water into a pond or tank or ditch, and malarial mosquitoes breed in that, then the board is given the power to require the owner to stop that nuisance. The clause gives the power, but how that power will be exercised depends upon individual cases.

Rao Saheb D. P. DESAI (Kaira District): I think, Sir, if this power is given to the district local boards, the individuals who will exercise the power may misuse it. In rural areas they store manure for agricultural purposes and for the storage pits have to be dug, and when they do that, under the plea that malarial germs are likely to collect officials will be hard on the owners. But generally speaking these villagers are not as susceptible to unhealthy atmosphere as the townspeople are. They are far healthier than the Bombay people or any city people. Although this clause is in its place in a Municipal Act, in a bill for rural areas this should not be inserted. Therefore, I oppose this clause.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I have nothing to say except to reply to the argument advanced by my honourable friend from Kaira. The power taken by this clause is necessary and will be exercised only after consulting the health officer of the board. Therefore, there is no danger. I hope the Council will support the clause.

Clause ordered to stand part of the bill.

Clause 59 (*Closing of places for the disposal of the dead*).

(1) If the district local board is of opinion that any place in the district which is used for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health, it may submit its opinion, with the reasons therefor, to the Commissioner. The Commissioner may thereupon, after such further inquiry, if any, as he shall deem fit to cause to be made, by notification direct that such place shall cease to be so used from such date as may be specified in that behalf in the notification.

(2) A copy of the said notification with a translation thereof in the vernacular of the district shall be published in the local newspapers, if any, and shall be posted up at the district, local board office and in one or more conspicuous spots on or near the place to which it relates.

(3) Any person who buries or otherwise disposes of any corpse in any such place after the date specified in the said notification for closure thereof or buries any corpse in any unoccupied Government land not set aside for the burial of the dead under the provisions of any law for the time being in force or by established usage, shall on conviction before a Magistrate be liable to a fine not exceeding rupees one hundred.

The Honourable the PRESIDENT: Mr. Pahalajani has given notice of an amendment to clause 59. He wants to add a proviso to that clause. I think the proper place for it would be not at the end of clause 59, but at the end of clause 61, as clause 61A.

Mr. B. G. PAHALAJANI: Sir, such a clause appears in the Municipal Act III of 1901 and the place as given to it is at the commencement of the Act.

The Honourable the PRESIDENT: That may be. But supposing the Council accepts the amendment and afterwards I put clauses 60 and 61, and the Council rejects them where shall we be? Therefore my suggestion. The honourable member, I hope, realises that?

Mr. B. G. PAHALAJANI: Yes, Sir.

Clause ordered to stand part of the bill.

Clause 60 (*President, etc., to have power of entry for inspection into buildings etc., where infectious disease exists*).

(1) The president of any district local board, or any person authorized by the board in this behalf, may enter at any time, after reasonable notice, into any building or premises in which any dangerous infectious disease is reputed or suspected to exist, for the purpose of inspecting such building or premises.

Inspection to be made between sunrise and sunset.

(2) No such inspection shall be made except between sunrise and sunset.

Disinfection of buildings, etc.

(3) If the district local board is of opinion that the cleansing or disinfecting of a building or premises or of a part thereof, or of any articles therein likely to retain infection, would tend to prevent or check the spread of any dangerous infectious disease, it may by notice require the owner or occupier to cleanse or disinfect the same within a time to be specified in such notice: provided that if the board considers that immediate action is necessary or that the owner or occupier is, by reason of poverty or otherwise, unable effectually to comply with its requisition, the board may itself cause such building or premises or articles to be cleansed or disinfected, and for this purpose may cause such articles to be removed from such building or premises; and the expenses incurred by the board under this sub-section shall be recoverable from the said owner or occupier unless he was, by reason of poverty, unable effectually to comply with its requisition.

The Honourable the PRESIDENT: Sardar Dalal has an amendment that the clause be left out, but he is not going to move it. Supposing the clause is left as it is, Sardar Mutalik has given notice of an amendment to leave out the words "by notice require the owner or occupier to".

Sardar V. N. MUTALIK: I will move first that the proviso be left out.

The Honourable the PRESIDENT: Very well.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Sir, I beg to move:

"That in clause 60, sub-clause (3), the proviso be left out."

Sir, the proviso says:

"provided that if the board considers that immediate action is necessary or that the owner or occupier is, by reason of poverty or otherwise, unable effectually to comply with its requisition the board may itself cause such building or premises or articles to be cleansed or disinfected, and for this purpose may cause such articles to be removed from such building or premises; and the expenses incurred by the board under this sub-section shall be recoverable from the said owner or occupier unless he was, by reason of poverty, unable effectually to comply with its requisition."

My only point in moving this amendment is that all sanitary arrangements ought to be paid for by the district local board. Sometimes it may happen that the man will be absent. We know the ways of living of people in rural areas. The man may be absent and he will be made to suffer some loss, or made to pay the cost of all the processes which will be resorted to, by the district local board. Now, we know how public bodies manage their works. They will require Rs. 5 where the owner would be able to do the work with a rupee. The circumstance that a man is absent is no reason to impose this additional expense on him. This clause is sure to work hardship on the rural population, without any gain, and I am opposed to any harassment of the ignorant people.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, this clause deals with the cleansing and disinfecting of buildings, power in regard to which is given to the district local boards. The honourable mover does not wish this power to be given to the district local borads. The district local board will recover the cost of cleansing and disinfection from rich people only—people who are known to be in a position to make the payment—and not from the poor people who are unable to bear such charges. I think the House should reject this amendment.

Proviso to sub-clause 3 of clause 60 ordered to stand part of the sub-clause. Amendment negatived.

Clause ordered to stand part of the bill.

Clause 61 (*District local board to notify places for washing and disinfecting articles exposed to infection*) ordered to stand part of the bill.

The Honourable the PRESIDENT : Mr. Pahalajani had better propose his new clause 61A now.

Mr. B. G. PAHALAJANI (Western Sind) : Mr. President, the new clause 61A which I wish to incorporate into this bill will read as follows :—

"The Governor with Ministers may at any time and for any period confer on any local board by notification any of the powers mentioned in sections 60 and 61, subject to such restrictions, limitations and conditions as he thinks fit."

The desirability of giving power of entry into other people's houses has always been a matter of considerable difference of opinion. When plague broke out in 1897 for the first time in the city of Bombay and the Bombay Presidency, the Government appointed its officers in the best interests of the health and safety of the people to supervise and carry out preventive measures. Forcible entry was one of the powers conferred. But their entry was resented so much—all kinds of entry, by all kinds of officers was resented so much—by the people that even in a small town like Sukkur there were riots in 1897 and people had to be sent to jail for resisting entries. The riots here in Bombay city were due, if not solely, at least in great part to a certain kind of inspection by plague officers. At all times, even with due deference to the customs of the people, entry into other people's houses is always unwelcome. Therefore, if entry is effected without distinction, the consequences may prove serious. In 1901 when the new Municipal Act came into existence, all the plague operations, all the enactments that conferred powers upon municipalities were restricted to a certain time and they were temporary only for the purpose and no more. All such powers were to be used only at certain junctures and they were to be withdrawn when necessity had ceased to exist. The Governor in Council was entrusted with the duty of looking into the advisability and introduction of such measures. Therefore, in the Municipal Act section 144 was reinforced by section 146. Between these two sections were all the provisions of inspection, entry and reporting. In section 144 of the Municipal Act a provision was made for the Governor in Council applying to a particular portion a particular kind of preventive subject to such limitations that were deemed necessary. Under section 146, they gave power to the Governor in Council to withdraw all these powers when the necessity for them was over. So if this power is now given to district local boards without restrictions of any kind or without any limitation of time, the consequences may prove undesirable. Therefore, I submit that though the power of entry may remain, yet it is not necessary to retain that power generally in the Act for all purposes and at all times, but it may be used and it may be introduced on particular occasions and at particular junctures only by the Government, by the Minister whenever he thinks fit. Therefore, I submit a limitation on the analogy of the Municipal Act should be embodied in the bill itself.

Rao Bahadur R. M. NILKANTH (Ahmedabad District) : May I point out, Sir, that this clause by itself will not affect the operation of clauses 60 and 61, unless the provision is worded to specifically say so ? Otherwise this clause will be redundant. This clause will not restrict the powers given by clauses

[Mr. R. M. Nilkanth]

60 and 61, unless it is so worded that clauses 60 and 61 will not be in operation unless the Governor gives the power with or without limitations. Unless the Governor is given the power to restrict the operation of clauses 60 and 61.....

The Honourable the PRESIDENT: I think Rao Bahadur Ramanbhai's point on a point of order is right. Clauses 60 and 61 already give the power. The point of Mr. Pahalajani's amendment is that the powers may be restricted in any particular case if His Excellency the Governor acting with his Ministers wishes it. The amendment as it stands seems to take away what the clauses give.

Mr. B. G. PAHALAJANI: I want to place clauses 60 and 61 in such a way so that the conferment of the power may be on the president, as in the Municipal Act.....

The Honourable the PRESIDENT: That will not do. That will make it quite inconsistent. This is taken from the Municipal Act. Is it not so?

Mr. B. G. PAHALAJANI: Yes, sir.

The Honourable the PRESIDENT: Very well. Does the Municipal Act confer powers by itself?

Mr. B. G. PAHALAJANI: Yes, sir. Section 144.

The Honourable the PRESIDENT: I see that section 144 says:

"The Governor in Council.....may at any time confer by notification.....any of the powers specified in sub-section (2)."

Mr. B. G. PAHALAJANI: General powers of inspection are given.

The Honourable the PRESIDENT: That Act differs from the construction of this bill in that section 144 of the former begins: "The Governor in Council may confer". It does not say the municipality shall have power, but the Governor in Council may confer the power, subject to such restrictions as he thinks fit. Has the Legal Remembrancer any suggestion to make?

Mr. S. J. MURPHY: Both the clauses will have to be redrafted, Sir.

The Honourable the PRESIDENT: But we have passed clauses 60 and 61 already, and we cannot go back on the decisions arrived at. I think, Mr. Pahalajani, your proper course would be to word the amendment as follows:—

"61A. The Governor acting with Ministers may at any time and for any period by notification, in the case of any local board, restrict any of the powers conferred in sections 60 and 61 subject to such limitations and conditions as he thinks fit."

Mr. B. G. PAHALAJANI: That would serve at least half of my object I accept it, Sir.

The Honourable the PRESIDENT: I allow the amendment to be moved that way.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, the object of this clause is clear, namely that if any action is considered to be necessary, that action must be prompt; and therefore that power is conferred on the district local boards. My honourable friend from Sukkur referred to certain Acts ending in the plague riots of 1896 and other years, but I think people have forgotten those days and the plague measures are now well understood and treated from a more common sense point of view. I know of an instance of how mischief is done, and I remember the case. There was all at once in the Ahmednagar municipal limits an outbreak of cholera and in one or two days the

[Rao Bahadur G. K. Chitale]

cases went up to forty or sixty a day. The contamination of water-supply that could be traced was from a village through which the municipal water-supply was passing. After investigation began it was found that that village was infected with cholera about 15 days back and about 10 cases were occurring there every day, and it was found that people were washing their clothes in the nallah and that was how the epidemic had spread. This was found out and brought to the notice of the Collector. Washing of clothes in the nallah was stopped and in 24 hours the epidemic was checked.

Now my honourable friend would not like that power being given to the Collector, who is the executive head of the administration. The Collector possesses no such power under the Local Boards Act. He is no longer president of the district local board and he would not even be able to know what steps the local board is taking to stamp out the disease or whether the local board is allowing it to be spread unnecessarily.

I do not see what purpose a saving clause will serve. After all, taking the view of the other side and supposing the Collector thinks that the mischief is being allowed to spread by the local board, at the most he can get their sanction to take measures to stop it himself. I should think the whole proviso would be meaningless and would never be acted upon by any responsible Government official, and I am not in favour of accepting it.

Mr. B. G. PAHALAJANI (Western Sind): Sir, the only serious objection to the introduction of this clause has proceeded from my honourable friend from Ahmednagar. He believes in himself too much and believes all possible authority should be vested in the president. But, Sir, he must have also some regard for the framers of the Municipal Act who experienced all the difficulties that my honourable friend does not see now when he advocates this power being given. Now, so far as the power is concerned, clause 60 gives that power. But in enforcing a section Government have tried the power of forcible entry and have experienced serious difficulties in carrying out the measures in view of the customs of the country. I know that the honourable member from Ahmednagar has good intentions, but after all, Government did respect, and it has respected, in promulgation as in pursuance of its policy in regard to epidemic diseases, customs of the people, and Government will not effect an entry—a forcible entry—into other people's houses. Under these circumstances, I cannot understand why this particular clause should exist there to confer a power of conferring a right of a forcible entry. If a president can succeed in entering a house peaceably there is no law necessary for the purpose. But when a president has got behind him the power of the law and wants to put that power into execution, I object to that, and I think every person here who knows the customs of the country ought to object to the power to effect the entry which the president otherwise cannot do. I think in this matter I will have the support of the House and also of the Honourable Minister in charge.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, the object of these clauses is to empower the local boards to take prompt action. Now clause 60 gives that power and an amendment is proposed that, after the boards have taken action if Government disapprove that action, then Government may withdraw that power from the boards. If any officer of the local board does not conduct himself properly, we have other clauses under which we can take action against the board. I hope this House will reject the amendment.

Amendment negatived.

Clause ordered to stand part of the bill.

Clause 62 (*District Local Board empowered to make by-laws*) ordered to stand part of the bill.

Clause 63 (*Service of notices, etc., addressed to individuals*) ordered to stand part of the bill.

Clause 64 (*Service of notices on owners or occupiers of buildings and lands*) ordered to stand part of the bill.

Clause 65 (*Public and general notices how to be published*) ordered to stand part of the bill.

Clause 66 (*Defective form not to invalidate notice*) ordered to stand part of the bill.

Clause 67 (*Punishment for disobedience to orders and notices not punishable under any other section*) ordered to stand part of the bill.

Clause 68 (*District local board in default of owner or occupier may execute works and recover expenses*) ordered to stand part of the bill.

Clause 69 (*Expenses or costs how determined or recovered*) ordered to stand part of the bill.

Clause 70 (*District local board may prosecute*) ordered to stand part of the bill.

Clause 71 (*Damage to any local board property how made good*) ordered to stand part of the bill.

Clause 72 (*Alternative procedure by suit*) ordered to stand part of the bill.

Clause 73 (*Powers of police officers*) ordered to stand part of the bill.

Clause 74 (*Local fund, its custody and investment*) ordered to stand part of the bill.

Clause 75 (*Income of local fund*)—

The following shall form part of, or be paid into, the local fund :—

(*a*) the balance of the local fund of the district at the commencement of this Act :

(*b*) the net proceeds (after deducting the expenses of assessment and collection) of any residue of the cesses payable in the district under the Sind Local Funds Act, 1865, and the Bombay Local Funds Act, 1869 :

(*c*) the net proceeds (after deducting the expenses of assessment and collection) of the cesses in the district authorized by sections 93 and 96 :

(*d*) the net proceeds (after deducting the expenses of collection and of the maintenance of the ferries) of all public ferries established in the district under the Bombay Ferries Act, 1868, not being ferries vested under the Act in the district local board, and all penalties inflicted and levied under the said Act in the district :

(*e*) all rents and profits accruing from property (including ferries) placed by the Government under the management of a local board or vested in a local board :

(*f*) the net proceeds (after deducting the expenses of collection) of all tolls and leases of tolls on roads and bridges vested in the local board which are levied in the district under the Tolls on Roads and Bridges Act, 1875 :

(*g*) such portion of the net proceeds of fees, fines and penalties levied in the district under the Poisons Act, 1919, as the Government from time to time directs :

(*h*) all sums ordered by the Government under section 31 of the Cattle-trespass Act, 1871, or otherwise, to be credited to the fund :

(*i*) all fees levied in the district under the Bombay Land Revenue Code, 1879, for permission to remove sand or to quarry :

(*j*) all sums received by a local board in the execution of, or from taxation under, this Act, and the interest on and the sale proceeds of any securities held by such board :

(*k*) all sums contributed by private persons :

(*l*) the proceeds of any fisheries vesting in a local board ;

(*m*) the receipts on account of charities and trusts placed under the management of a local board: and

(*n*) all grants and assignments of revenue made by the Government:

Provided that when a public ferry, road or bridge is partly in one district and partly in another, the Commissioner, if the districts are in one division, and the Government if they are in different divisions, may assign to the local fund of each district such proportion of the net proceeds of such ferry, or of the toll, or of the lease of the tolls levied on such road or bridge, as he or it shall think fit:

Provided further that if any road in a district is vested partly in a local board and partly in the Government, the Collector may assign to the local fund of the district such proportion of the net proceeds of the toll or of the lease of the toll levied on such road as he shall think fit.

The Honourable the PRESIDENT: As regards clause 75, there is a notice of an amendment by Rao Saheb Harilal Desai, which I rule out of order, as contravening the provisions of section 80 C of the Government of India Act, inasmuch as it seeks to impose a charge upon the public revenues. The amendment is:

"From sub-clauses (*b*) and (*c*) respectively of clause 75, lines 3 and 6, omit the word 'net' and also the words '(after deducting the expenses of assessment and collection).'."

Then there are four amendments by Rao Bahadur Kale, but they are also out of order under section 80 C of the Government of India Act.

Rao Bahadur R. R. KALE: Will the Chair permit me to point out.....

The Honourable the PRESIDENT: The language of section 80 C of the Government of India Act is so plain, the rulings of the Speaker bearing on the point to which I have often referred so clear, and I have given my rulings to that effect in this Council so many times, that I think it would be useless reopening the question and arguing with the Chair on this well-established principle and practice prescribed by Parliament in the Government of India Act on the lines of the rule obtaining in the House of Commons.

Rao Bahadur R. R. KALE (Satara District): What I want to submit, Sir, is that there was in the Local Fund Act, a power given to the local boards to levy a certain cess on what is called sayar revenue. That Local Fund Act has been incorporated in the present Local Boards Bill, so that the Local Boards Bill constitutes the Local Fund Act. Now, the sayar revenue which was allowed to be levied under the old Act has been omitted in the present bill. Now, is it not open.....

The Honourable the PRESIDENT: What is your amendment, first of all?

Rao Bahadur R. R. KALE: My amendment is that certain sources of revenue should be available to the local boards.

The Honourable the PRESIDENT: New, or existing?

Rao Bahadur R. R. KALE: If the present income or contribution from the abkari revenue is a sayar revenue, as I claim it to be, then it is an old source.

The Honourable the PRESIDENT: It is not a question of old or new source. Is it a public revenue, or is it a rate?

Rao Bahadur R. R. KALE: It is a rate.

The Honourable the PRESIDENT: The revenue which you now wish to appropriate for local purposes, is it at present a public revenue, or is it a local rate, a tax, or a rate, or a cess?

Rao Bahadur R. R. KALE: It is a rate or cess.

The Honourable the PRESIDENT : How was it levied by the local bodies ?

Rao Bahadur R. R. KALE : Section 6 of the Local Fund Act says :

"It shall be lawful for Government to levy, for the purposes of this Act....from every farmer of land or sayar revenue in respect of any such farm taken from the Collector or other officer on behalf of Government, after the date on which this Act comes into operation, a cess not exceeding one anna on every rupee that is assessable to the ordinary land revenue.....and on every rupee that is payable by such farmer of land or sayar revenue in respect of such a farm."

The Honourable the PRESIDENT : It is not a tax ; it is a rate or cess.

Rao Bahadur R. R. KALE : Yes, Sir. I want that this cess, which has been excluded from the bill, should be included in it.

The Honourable the PRESIDENT : The rate or the cess as it exists now is levied by the local boards upon certain revenues ; is it not ?

Rao Bahadur R. R. KALE : Yes, Sir. Upon the basis of certain revenues.

The Honourable the PRESIDENT : But not a tax going into the coffers of the public revenue or the provincial revenue, but going into the coffers of the local board ?

Rao Bahadur R. R. KALE : Government gives it to the local boards. The history of this question is a very old one. In 1912 a resolution was moved in the Council on this point, and we find from the proceedings that the matter has been discussed.

The Honourable the PRESIDENT : The honourable member need not go into details. The only question which I have to decide on a point of order is whether this particular levy is a rate or a tax, whether it is provincial revenue or local revenue.

Rao Bahadur R. R. KALE : It is local revenue, equivalent to the local cess.

The Honourable the PRESIDENT : The mere fact that a rate is levied on a landowner or farmer, who pays in proportion to his revenue, would make it a cess, and now the honourable member's contention is that it has been excluded.

Rao Bahadur R. R. KALE : Yes, Sir.

The Honourable the PRESIDENT : Is the Government going to take it ? I see that there is a section which is to come later on, where this bill authorizes Government to levy the one anna cess for the purposes of the bill.

Rao Bahadur R. R. KALE : That is land revenue cess.

The Honourable the PRESIDENT : But the abkari cess is taken away ?

Rao Bahadur R. R. KALE : Yes, Sir. As to the abkari revenue, after the Act of 1869 was passed, the local boards were allowed one anna on the abkari revenue. That is, the abkari contractor was to pay to the Government, and tacked on to it was a rate for local purposes.

The Honourable the PRESIDENT : That is local cess.

Rao Bahadur R. R. KALE : Yes, Sir. After some years, Government made some arrangement.....

The Honourable the PRESIDENT : For the present I will allow the honourable member to move his amendment, but if, in the course of the discussion, I feel that it is out of order, I shall have to rule it out.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I think it is out of order.

Rao Bahadur R. R. KALE: You are aware, Sir, that the district local boards.....

The Honourable the PRESIDENT: What is your amendment?

Rao Bahadur R. R. KALE: In clause 75, ofter sub-clause (*n*), my amendment is for the addition of three sub-clauses, (*o*), (*p*), and (*q*). Out of that, I only want to take up clause (*p*).

The Honourable the PRESIDENT: You omit (*o*) and (*q*)?

Rao Bahadur R. R. KALE: Yes, Sir; bacause according to the ruling of the Chair, they are public revenues. I want to confine myself to local fund cess on abkari contracts, that is, part (*p*) of my amendment. Clause 75, regarding local fund revenue has sub-clauses (*a*) to (*n*). I have stated that after (*n*), three sub-clauses should be added; I exclude (*o*). Now (*p*), that is, local fund on abkari contracts, will become (*o*). So my amendment will be—

"After sub-clause (*n*) of clause 75, add a new sub-clause (*o*) as follows:—

'(*o*) Local fund cess on abkari contracts.'"

In the new Local Boards Bill, the resources to local bodies are limited. We expected that at least some sources of revenue which were available would have been expressed in this bill. Instead of that, we find this source of revenue of local fund cess on abkari is omitted from this bill. No doubt in the Local Boards Act there were no provisions at that time; but there was a provision in the Sind Local Fund Act, and Bombay Local Fund Act (No. III of 1869 and Bombay No. VIII of 1865). In those Acts there was a provision by which a cess was authorised to be levied on what is called 'sayar' revenue. It means literally 'remaining'; whatever remains in the revenue—surplus revenue. Really speaking, it is a wide term and it included all miscellaneous items of revenue. The local fund cess, up to the year 1873, was levied on abkari contracts. At that time some arrangement was agreed upon by which the Government consolidated, as it were, a certain amount and began to contribute a limited sum instead of the contribution of one anna upon abkari contracts. That arrangement continued for some time, and when the question of revising this amount was discussed in the year 1893 it was brought to the notice of the Council during the days of Ranade.....

The Honourable the PRESIDENT: The honourable member is going too much into history.

Rao Bahadur R. R. KALE: The question is about the 'sayar' and I am merely quoting authorities.....

The Honourable the PRESIDENT: I merely want to know whether the local fund cess on abkari contracts is a cess. If it is not a cess, and if it is a tax, you are not in order.

Rao Bahadur R. R. KALE: I do maintain it is a cess. Now, it will be quite clear that it should be added to the resources of the local boards.

The Honourable the PRESIDENT: Your argument is that up till now we have been having that revenue, why take it away from us now?

Rao Bahadur R. R. KALE: Up to now we have been getting our contribution, and my contention is that so long as it exists, we ought to get our legitimate share. If abkari revenue is abolished, then the question is different. So long as this source exists, the local bodies cannot afford to lose this revenue in view of the onerous and additional duties that have been imposed upon them. This fact has been admitted by the Government itself, and also the committee

[Rao Bahadur R. R. Kale]

appointed in 1915 has recommended that the progressive revenue of abkari should be granted to local bodies. What I submit is that we are already getting one anna share and that it is a recognised fact that the duties of local boards have been augmented. It is for that purpose that not only this one anna cess, but an additional amount from this cess must be made available to local bodies.

The Honourable the PRESIDENT : There is distinction between cess and revenue. It is a well recognised distinction. The cess is for local bodies and does not require the recommendation of the Governor. It is within the jurisdiction of the Council, whereas the imposition of a charge on public revenues requires the recommendation of the Governor under section 80 C of the Government of India Act.

Rao Bahadur R. R. KALE : So, Sir, it is enough for me to point out that this cess was provided for in the Local Funds Act, and now that we are going to replace the Local Funds Act by the Local Boards Act, it is necessary to give the local boards the one anna cess on abkari which they had under that Act. I think, Sir, no more arguments are needed to impress on the Council the justice or need of more money being made available to the local boards, and I hope the Council will support the amendment.

The Honourable the PRESIDENT : May I ask the Honourable Minister whether this is a tax or a cess ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : It is a tax from the excise or abkari and goes to provincial revenue. Government give them as grants.

The Honourable the PRESIDENT : That is to say, Government, out of their own bounty, give it to the local boards, not as a cess but as a portion of Government's contribution ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Yes, Sir.

The Honourable the PRESIDENT : When you impose a tax upon the abkari, do you levy anything in addition to that tax for the purpose of this local rate ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Not at all, Sir.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, in 1873, the Government of India decided that the word " sayar " did not include abkari and prohibited the local boards from levying any cess on abkari. After 1873 the local boards applied to the Government of India because in those days excise used to be exclusively an Imperial subject though the revenue was shared equally by the provincial and the Imperial Governments that they should get some grant or contribution from the abkari revenue. Then the Government of India agreed to give them some grants. In 1884 the present Act was passed, and you will see, Sir, that there is absolutely no mention there of any cess on abkari or excise at all. When the Act came before the Council no member representing the local boards raised the point that they wanted this one anna cess on the abkari income ; they were quite content with the contribution that they used to get. Then, Sir, up to this time they have never had any cess on the excise.

[Khan Bahadur Shaikh Ghulam Hussain]

Again, Sir, I take my stand on the Government of India Act. Section 80A, sub-clause (3) clearly says :

"The local legislature of any province may not without the previous sanction of the Governor-General, make or take into consideration any law—

(*a*) imposing or authorising the imposition of any new tax unless the tax is a tax scheduled as exempted from this provision by rules made under this Act ; or

(*b*) affecting the public debt, or the customs duties....."

Now, the taxes which the Legislative Council can allow the local authorities to impose are shown in Schedule II of the rules made under the Government of India Act.

Rao Saheb D. P. DESAI : It is included, Sir.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : It is not included, Sir. Now, they are proposing a cess which has never been levied up to this time by the local boards, that is, the one-anna cess on abkari or excise. Therefore, they are proposing a new tax which requires the sanction of the Government of India.

Another objection is that under section 80C of the Government of India Act a member of this Council, without the previous sanction of the Governor, cannot introduce a measure affecting the public revenues of a province. Now, the proceeds of the excise tax go to the provincial revenue, and if local bodies are allowed to levy a one-anna cess on the contract money, that will be imposing an additional surcharge on the excise-tax and thereby the provincial revenues will be affected.

The Honourable the PRESIDENT : What is Schedule I and what is Schedule II ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Schedule I relates to the provincial Government and Schedule II to local bodies. We are concerned with Schedule II. Any tax outside Schedule II requires the sanction of the Government of India.

Rao Saheb D. P. DESAI : Sir, Schedule II, item 9, provides for a tax on "trades, professions and callings". A liquor trader is a shop-keeper.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : You are taxing the contract money which goes to the provincial revenues.

The Honourable the PRESIDENT : But how do you answer Rao Saheb Desai's point ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : If they propose only to tax the trade, there is already a provision in the bill to meet the case, and there is no necessity for this amendment. But the amendment touches the contract money, that is, the money that Government realise from the contractors.

The Honourable the PRESIDENT : You are already allowed by the bill to levy a tax on the liquor trade if you like. But here you want to get it from the contract money. Is that your argument ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : My argument is that the amendment will affect the provincial revenues, Sir.

The Honourable the PRESIDENT : I do not want time to be wasted. I have heard all points on the question, and I rule this out.

Mr. G. B. TRIVEDI: Will you allow discussion of this clause, Sir, so that we can focus our views on this? We do not want to move the amendment.

The Honourable the PRESIDENT: After the amendments are gone through, I will put the clause as amended or unamended. But, first of all, I must get rid of all the amendments.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Sir, the next amendment, which I wish to move, is:

"That in clause 75, after sub-clause (n) add the following:—

'(o) the net proceeds of one anna in the rupee of the forest revenue'."

The Honourable the PRESIDENT: How does it come under Schedule II?

Sardar V. N. MUTALIK: It does not. It comes under the ordinary local fund cess, because forests stand on land which we are entitled to tax.

The Honourable the PRESIDENT: That is out of order, because the wording is "the net proceeds of one anna in the rupee of the forest revenue". That means that it is a slice out of the forest revenue. I must rule it out of order.

Question put that clause 75 do stand part of the bill.

Mr. G. B. TRIVEDI (Thana District): Mr. President, although we have not been successful in getting any amendments of clause 75 passed, we should like to take this occasion to impress upon the Honourable Minister that it would be very hard for local boards to carry on their administration unless he finds new sources of revenue for them. I know, Sir, that the Schedule II pointed out by the Honourable Minister exists. He made reference to this Schedule also at the first reading. Even then, as representative of the people in this Council I consider it my duty to appeal to the Honourable Minister on behalf of local boards that it is his duty to take up this question, not only with the provincial Government, but with the Government of India also and try to get us the power to levy cess on forest revenue, on abkari revenue and salt pans, and such other revenue as is possible. It has been argued on behalf of Government that that will make some encroachment on the revenue of Government. We do not ask for any share from the Government revenue (either provincial or Imperial). What we ask is that we may be allowed to levy the cess of one anna on forest and other sources of revenue. Government take their own land revenue and afterwards Government collect on behalf of local boards one anna. Similarly in the case of forests, for example, when the contractors take away timber and pay for example Rs. 80,000 and so on for timber sold to them, then Government shall say that they will pay one anna in a rupee for assignment to the local board. Will that in any way make any encroachment on the Government's revenue? I do not think so. In my district there are many forests and there is a great revenue from forests, and I have spoken to the merchants, I have spoken to these contractors and asked their opinion whether it would in any way affect the revenue of Government, and they were all of opinion that Government would get their proper revenue for the material they sell, and what the contractors pay over and above that will be out of the pockets of the contractors and not out of the pockets of Government. So also in regard to salt. In my district there is a great revenue from salt and if the district local board is allowed to levy a cess on forest, and abkari and on salt, we shall get ample revenue to meet all our requirements, but in the absence of these it will be very difficult. If we are allowed to levy a cess, we shall get the money we want. In my district we asked that we might be

[Mr. G. B. Trivedi]

allowed to levy a cess of one pie per maund on salt, but that even was disallowed on the ground that Government were afraid that they would lose part of their salt revenue. Government seem to be very touchy on this question, but I can assure them that on enquiries made I have come to this conclusion that Government will not lose anything. If, therefore, the Honourable Minister takes up our case in the cabinet of the provincial Government and also with the Imperial Government, the grievance ventilated here by several honourable members will stand a chance of being remedied to a great extent and the administration of local boards will be very successful in this province.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, as an opportunity has been given to have a general discussion on this clause, so that the grievances of local boards may be ventilated in this Council, I wish to say that I am in full agreement with the views expressed by the honourable member from Thana. What local boards want is the power to levy a cess—not a tax. Whenever the Collector writes to local boards, he uses the word "cess" such as cess on excise. Hitherto we have been getting it in the shape of a cess on excise. In the olden days Government thought that abkari revenue was an expanding revenue, and they did not like the cess of one anna to be imposed upon it and therefore they compromised in a lump sum. Again, in these days the control was more or less in the hands of officials and there was very little enlightened public opinion, and so they did not raise any objection. Now conditions are different. The local boards are in great need of money to carry on their duties properly and I consider that their grievance in this matter is a very strong and genuine one.

The Honourable the PRESIDENT: In Schedule II it is said that a tax includes a cess. If a distinction had been observed, there would have been no difficulty. Now Rao Bahadur Garud will address the House.

Rao Bahadur R. R. KALE (Satara District): I thought you said that I would be given an opportunity to speak on this.

The Honourable the PRESIDENT: Now you are too late. If I have committed an error, all that I can say is that I apologise to you. You ought to have risen at the proper time and said you wanted to speak. You may speak on the clause.

Rao Bahadur S. D. GARUD (West Khandesh District): Mr. President, I join my honourable friend from Thana in the appeal which he made to the Honourable Minister to help the district local boards to get as much revenue as they possibly can, in view of the onerous duties that have been placed upon them and in view of the several increased charges that they will have to bear under this legislation. The Local Fund Act, section 6, gave two sources of revenue to local boards, (1) the land cess and (2) the sayar cess. Both these cesses were to be levied and collected in the same way. Now, in this case I may be permitted to explain how the land cess is at present levied. This land cess is levied over and above the land tax actually collected by Government and this land cess is taken from the occupiers of land or from the farmers of land, so that over and above what they collect as land tax, Government also collect on behalf of the district local board this land cess, which I submit is over and above the tax which they collect and it really is not provincial revenue.

The Honourable the PRESIDENT: No; the cess is not provincial revenue, but the tax is provincial revenue.

Rao Bahadur S. D. GARUD : Yes, Sir. The cess is not provincial revenue. Exactly the same provision under which the land cess is levied by Government is made in the Local Funds Act for collecting the abkari cess and the district local boards get from Government only what Government choose to call "a contribution in lieu of the excise cess". This particular wording which I put before the House may be noticed. It says that Government regard it as a cess and that Government give that contribution in lieu of the excise cess which the local boards are entitled to levy on the excise revenue, over and above the revenue which is collected by the Government. Now, this excise cess was collected and paid to district local boards till 1873 in which year it was commuted into this contribution, and it has not been revised. Several complaints have been made to Government on this score. In 1912 I myself moved a resolution in the Legislative Council requesting Government to revise their contribution or to allow the district local boards to get the revenue from the cess. Both these requests, however, were not accepted and the local boards have still to be content with the contribution in lieu of the abkari cess which Government give to them. Whilst, therefore, district local boards get their land cess over and above the land tax collected by Government, the land tax is merely a measure, as it were, of the cess to which the local boards are entitled. Government get that tax and the district local boards get the cess. In the same manner they should really have got the abkari cess also over and above the revenue collected by the Government. But unfortunately, that has not yet been done.

The Honourable the PRESIDENT : If that is correct, then it seems to me that the local boards are entitled to it as a cess. But what I understood from the explanation given was that the Government collect the abkari revenue and make a contribution out of it.

Rao Bahadur S. D. GARUD : I submit, Sir, that the land cess and the abkari cess are levied on behalf of the district local boards under the same provision of the Local Funds Act. Now the abkari cess in no way differs from the land cess which is now actually being collected, because both of them would be levied under the same enactment as cesses for local purposes over and above the land and abkari revenue and distinguished from them. Now, I have in my hands the Local Funds Act. I shall merely read, Sir, the wording of section 6.

The Honourable the PRESIDENT : I have read it ; I have understood it. It need not be read over again.

Rao Bahadur S. D. GARUD : So I submit, Sir, that the land cess which is now collected over and above the land tax which is levied by Government is collected under the provisions of this very same section which authorises a levy of the abkari cess, and the contribution paid by Government has not been revised merely because Government were not inclined to revise it, though representations were frequently made from time to time to revise the contribution.

The Honourable the PRESIDENT : The honourable member from West Khandesh has put his point very lucidly. But what I want to know is this. The case for the official side is that what Rao Bahadur Kale proposes is a contribution out of the abkari revenue.

Rao Saheb D. P. DESAI (Kaira District) : No, Sir. He proposes a cess.

The Honourable the PRESIDENT : Then, according to this side of the House, Government collect money as local cess and pocket it.

Rao Saheb D. P. DESAI: Yes, Sir. They have been doing it all these years.

Rao Bahadur S. D. GARUD: I submit, Sir, that Government are not authorised to claim two kinds of revenues.

The Honourable the PRESIDENT: I think this is a very important point and I now feel that I must revive that amendment if I am not satisfied by the Honourable Minister, because the case is this: Section 6 of the Bombay Local Funds Act says:

"It shall be lawful for Government to levy for the purposes of this Act, on the conditions and manner hereinafter described.....a cess not exceeding one anna on every rupee that is assessable to the ordinary land revenue, .....and on every rupee that is payable by such farmer of land or sayar revenue, etc."

So that is the old cess. It is called the local fund cess for local purposes. It goes into the coffers of Government, but it was collected for local purposes. That is, Government levy an additional rupee for the purposes of the local board on the abkari revenue. That being so, I think the amendment will be in order.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sayar revenue according to Government of India does not include abkari. The boards have no claim on abkari revenue. Government gets income from excise contracts. No cess is collected on these contracts by Government at all. Since 1873 even the local board.....

The Honourable the PRESIDENT: But this Council is entitled to enact without any recommendation from His Excellency the Governor that on every revenue in respect of such parts for the purposes of local boards a cess may be levied. Is it not so?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: There are no abkari farmers now, but there are only contractors. Government cannot impose any cess on abkari contract money; because that is outside Schedule No. II, which does not allow any cess on abkari contract money. What I contend is that the Council is not entitled to any contract money that Government get from abkari contracts. They can tax the contractors' income if they want to do that.

The Honourable the PRESIDENT: If the Council is entitled to levy a cess on every rupee of the land revenue for local purposes, why should it not be entitled also to levy a cess for those purposes on every rupee of the abkari contract money?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: If the Council wants to tax the contractor, Government have nothing to do with it. What they want is from Government revenue. That is the point.

Rao Saheb D. P. DESAI: We simply request Government to collect on our behalf all abkari revenue derived by them.

The Honourable Mr. C. V. MEHTA: Sir, may I be permitted to say a word? It should be remembered that the days when the abkari contracts were being farmed out to different contractors no longer exist. That system was abolished many years ago. Therefore, there is no tax or cess on abkari farmers. I will come to the contractors presently.

*After recess.*

The Honourable the PRESIDENT: Order, order, It is unnecessary, for the purposes of this amendment, to go into the question which has been raised as to whether this Council has or has not the power to tax the abkari contractors in

[The President]

the way proposed, because if the question were open, I should have felt inclined to let in the amendment on the ground that it was a very doubtful point. Where the Chair is in doubt, the proper thing to do is to interpret the rules and points of order in favour of the liberty of the Council and its jurisdiction. Here it is not a mere question of the rules and standing orders, but it is a question of the construction of Section 80C of the Government of India Act. Legal interpretations are not for the Chair. Steering clear of them I should say, this amendment affects the principle of the bill and so would be out of order at this second reading stage unless the point had been raised and left open for the subsequent stages by the general assent of the House. Any motion or any amendment raising the question of the imposition of a burden on the subject whether as a tax or a cess affects vitally the principle of the bill, and as such it should be raised at the first reading. If it was not raised at the first reading of this bill.....

Honourable MEMBERS: It was raised.

The Honourable the PRESIDENT: Where is it? I wish to see it.

Rao Saheb D. P. DESAI: First of all, I raised it with regard to the question of sayar revenue, and Sardar Modi also raised it.

The Honourable the PRESIDENT: I see it was raised at the first reading.

Mr. B. G. PAHALAJANI: I asked for a ruling from the Chair whether taxation was a matter of principle or a matter of detail, and it was ruled that it did not form part of the fundamental principle of the bill.

The Honourable Mr. C. V. MEHTA: Sir, is the point of order now being discussed?

The Honourable the PRESIDENT: As the point was raised at the first reading, and I stated with the general assent of the House it might be considered in the select committee, it is open now.

The Honourable Mr. C. V. MEHTA: I am only addressing myself to the point of order. It is true, Sir, that in section 6 of the Bombay Local Funds Act, 1869, the words used are as follows:

"It shall be lawful for Government....."

The Honourable the PRESIDENT: I have read all that.

The Honourable Mr. C. V. MEHTA: The point here is this, that the word "sayar", as used there means land or miscellaneous revenue which does not include excise. Excise was all along in the past a revenue of the Government of India, and the Government of India ruled on a representation from the Local Government that the word "sayar" should be interpreted to mean only miscellaneous revenue, which does not include abkari revenue. That ruling has been in existence for over 50 years, and I take it that that ruling is binding upon all of us. Secondly, Sir, the words in the section are "sayar revenue in respect of any such farm taken from the Collector or any other officer". The excise revenue is principally made up of two items. Firstly, the still head duty levied upon the amount of liquor consumed and, secondly, the fee for the right of selling liquor recovered from shop-keepers. Therefore, it is doubtful whether you can take it as a tax on a profession or trade.

The Honourable the PRESIDENT: We have nothing to do with that. The whole question is whether the Council has jurisdiction.

The Honourable Mr. C. V. MEHTA : Exactly, I also want to understand what is meant precisely by 'cess on abkari contracts'. We are not concerned with what is the revenue of the contractor. As a matter of fact, we do not know their revenues.

The Honourable the PRESIDENT : You know what you get from them. The revenue you get from contractors.

The Honourable Mr. C. V. MEHTA : In that case it is a cess on revenue derived by Government from contractors. Then it becomes a tax on Government. If the honourable member limits his argument to this that you do not want to tax what the contractors make, but what Government gets by way of fees for the right of selling, then it becomes a tax on Government and not on a trade or profession.

Rao Bahadur R. R. KALE : No. no.

The Honourable the PRESIDENT : Let us hear the arguments. I am not going to decide the point of order without hearing all who can enlighten me here.

The Honourable Mr. C. V. MEHTA : I was arguing the point about the exact interpretation of the words 'cess on abkari contractors'. I submit that it is not a tax on profession or trade, but a tax on Government revenue. If, on the other hand, a tax on the liquor traders' revenue is meant, then the Schedule II already provides the power and no addition is required in the present bill. On these grounds I submit the amendment is out of order.

Rao Bahadur G. K. CHITALE (Ahmednagar District) : Sir, so long as the phraseology of the Local Boards Act exists as it is without being repealed by any enactment, the cess legitimately belongs to the local boards. Simply because a name has been introduced or changed, it should not be ruled out of order.

The Honourable the PRESIDENT : Now, the whole question is whether what Rao Bahadur Kale proposes is a tax on profession, calling or trades.

Rao Bahadur G. K. CHITALE : I wish to point out that even in budgets, a permanent contribution of one lakh fifty-five thousand rupees to local bodies in lieu of one anna cess on excise revenue appears. As now the Local Boards Act is under amendment, it is sought to be embodied in the Act itself. In that we want that instead of one anna cess being made over to us we want a fair share of it. License, whatever it is, is in itself a right to monopoly and is being sold to another, and it will not be otherwise. Whatever the levy was. that, Sir, was considered to be a proper levy under the Local Funds Act and therefore this amedment is in order.

The Honourable Mr. H. S. LAWRENCE : On the point of order, Sir, I should like to draw the attention of the House to clause 75 of the bill, which begins by saying that :

"The following shall form part of, or be paid into, the local fund."

There are various sources mentioned.

It is proposed to add to the local fund, in terms of the amendment, local fund cess on abkari contracts. That assumes, Sir, I submit, that there is a local fund cess on abkari contracts. But, as a matter of fact, there is no local fund cess on abkari contracts. Therefore, the amendment proposes to add to the local fund something which does not exist.

The Honourable the PRESIDENT : That, I suppose, is no point of order. I had that in mind. That objection can be met by adding this either to sub-clause (*a*) or (*b*) of clause 93 (1).

Rao Bahadur R. R. KALE : It would be only a consequential amendment.

The Honourable the PRESIDENT : Therefore, that difficulty does not arise. But the question now is whether the cess can be levied as a cess on "trades, professions and callings".

The Honourable Mr. H. S. LAWRENCE : Sir, if the proposed addition to clause 93 is merely a consequential amendment, then it is necessary, I submit, to consider whether this is a tax that is to be levied from the citizens in addition to what they would otherwise be paying, or whether it is a share out of the revenue which Government are obtaining. I am not quite clear which the amendment purports to do. Is the mover asking for a new tax from the contractor, or is he asking for a share of the Government revenue ? May I have that point cleared ?

The Honourable the PRESIDENT : He is asking for a new tax or cess. He does not want a single pie out of what Government get as provincial revenue. Supposing I pay Government income-tax to the extent of Rs. 500. Then Government may impose a new tax and say that every person who pays an income-tax of Rs. 500 or over shall pay so much on Rs. 500 for the purpose of education or sanitation. It will be an additional tax and its relation to the income-tax is only as machinery or a standard of measure for the purpose of determining the incidence. The incidence of the tax is different from the tax itself. It is a tax of a new kind.

The Honourable Mr. H. S. LAWRENCE : Then, Sir, it is quite clear that the proposal is to put on an additional tax. I would call attention to section 80C of the Government of India Act, which says :

"It shall not be lawful for any member of any local legislative council to introduce, without the previous sanction of the governor,.....any measure affecting the public revenues of a province, or imposing any charge on those revenues."

The Honourable the PRESIDENT : This tax does not impose any charge. "Affecting the public revenues"—that means paying out in such a way as to curtail the provincial revenues.

The Honourable Sir IBRAHIM RAHIMTOOLA : Sir, the point is this : What is the tax that is proposed ? Is it a tax which really means the appropriation of Government revenues or is it in actual practice an additional levy ? Sir, a misconception has arisen in consequence of the cess on land revenue. Government imposes a revenue tax on land and it is laid down that an additional tax of one anna in the rupee—or it may be 2 annas under the present bill—shall be levied on the cultivator in addition. Now, Sir, land revenue once it is settled becomes a fixed quantity and any new tax you add to it does not affect the amount of that tax. If similar conditions existed in regard to abkari revenue, then the whole point as you have put it would be quite in order. But it is not so. In this case Government receive a certain amount of revenue for the right of selling liquor. The amount is not a fixed one but is determined as a result of sale by public auction. Therefore, the whole amount offered at the auction is Government revenue. I should like to know whether it is proposed that after a man has been declared the highest bidder at an auction for the sale of country liquor he should pay in addition one anna or two annas in the rupee ? Assuming that this is what is really meant, I should like to point out that it is wholly impracticable. The man who bids at an auction

[Sir Ibrahim Rahimtoola]

may be willing to offer Rs. 16,000 for the right. If you lay down that he will have to pay one anna more in the rupee, he will know that he will have to pay Rs. 1,000 in addition to the Rs. 16,000 and he will therefore reduce his bid to Rs. 15,000. The result is obvious. It will mean a reduction of Government revenue. It therefore directly affects Government revenue. In the case of land revenue it does not. If abkari revenue was based on the same principles as land revenue, then it would be perfectly in order. But it is not so. A man who is bidding at an auction will go up to a certain maximum limit and, if he knows that there is a further tax on him, he will reduce his bid to that extent. It is an ordinary matter of business, and the result is that it really reduces Government revenue to that extent. In other words it really amounts to a subvention from Government to local board revenues.

The Honourable the PRESIDENT : May I suggest to the Council that the consideration of this clause be postponed and taken up with clause 93 ? Both Government benches and non-official benches may look into the matter more carefully,—and I shall also look into it—because it seems to me that this is a difficult problem. I should like to see what " tax on trades, professions and callings " means.

Mr. B. G. PAHALAJANI : There are other clauses which will have to be postponed if this is postponed.

The Honourable the PRESIDENT : I was considering that matter. It is in the discretion of the Council to ask for the postponement of any clause or clauses. Does the Council agree to postpone ?

The Honourable Sir IBRAHIM RAHIMTOOLA : Personally, I would have no objection.

The Honourable Mr. H. S. LAWRENCE : Sir, I wish to draw the attention of the Council to Schedule II of the Government of India Act. In this Schedule the word " taxes " includes cess, rate, duty or fee. The Government benches are most anxious that the district local boards should have every form of revenue at their disposal, but we cannot go beyond the wording of Schedule II, and it seems to us as a matter of correct interpretation that a cess on abkari revenue cannot be brought within the terms of Schedule II. On the other hand, it is perfectly possible for district local boards to take the revenue they desire if they will pass resolutions under item 9 of Schedule II. As you mentioned, Sir, a tax on trades, profession and calling.....

The Honourable the PRESIDENT : I am much obliged to the House for the help given me. It has been very valuable, but I think there is a very narrow point involved in this discussion. Whether such a cess as that proposed by the amendment now concerned is a measure affecting the public revenue, whether it comes within the word " affects " in section 80C of the Government of India Act. That is the narrow question.

Dr. S. S. BATLIWALA : I beg to move :

" That the consideration of clause 75 be now postponed and taken up along with taxation clauses."

Question put and agreed to. Consideration of clause 75 postponed.

Clause 76 (*Local fund by what boards to be expended*).

(1) The local fund of a district shall be available for expenditure by or under the direction of each taluka local board for the purposes of this Act as follows :—

(a) the balance available for expenditure by or under the direction of such board at the commencement of this Act : and

(*b*) the balance of the revenue described in clauses (*b*), (*c*), (*e*), (*g*), (*h*), (*i*), (*j*) and (*k*) of section 75 accruing in the areas subject to the authority of such taluka local board, after the district local board shall have made provision therefrom for the portion to be devoted to educational purposes under section 80 and for such share of the charges payable by the district local board under sections 78 and 81 as the said board shall deem equitable;

(2) The remaining portion of the fund shall be available for expenditure by or under the direction of the district local board for the purposes of this Act.

Mr. G. C. BHATE (Kolaba District): Sir, what I want the Council to understand is that the district local boards and the taluka local boards should be separate in the handling of their revenue as they were under the old Act. Under the old Act (section 45) certain revenues are practically the revenues of the taluka board. That section says that the revenues derived from (*e*) and (*f*) of section 44 were of the taluka boards and also the revenue derived from Cattle-Trespass Act, and also all sums accruing to Government with all other sums placed to the credit of the fund by the Government and contributions by private persons and all sums described in clause (*h*) of the last preceding section. All these items of revenues were of the taluka boards and by clause 5 of section 45 contributions from the land revenue proper were made by district local boards to the taluka boards. What I want by the amendment is that the same state of things should be there so long as the taluka boards ought to exist under the present bill and, therefore, I have given this notice of amendment on the lines of section 45 of the old Act, to delete (*e*), (*g*), (*h*), (*i*) and (*k*). What I say is that revenues under these clauses should be of the taluka boards exclusively and, therefore, in order that they should be so, a new clause should be added saying that all these revenues *plus* one revenue under sub-clause (*l*) of clause 75 should be of the taluka boards exclusively. The rest of the revenues will be of the district local boards. It should be on the lines of the old section 45 of the old Act, namely, the Act at present in force.

The Honourable the PRESIDENT: You must move your amendment formally.

Mr. G. C. BHATE: The amendment which I move, Sir, is as follows:—

"In clause 76 (1) (*b*), leave out the letters (*e*), (*g*), (*h*), (*i*) and (*k*); and add clause (*c*) to sub-clause (1) as follows:—

'(*c*) the whole of the revenues described in clauses (*d*), (*e*), (*g*), (*h*), (*i*), (*k*) and (*l*) of section 75 accruing in the areas subject to the authority of such taluka local board'."

Dewan Bahadur K. R. GODBOLE (Poona District): Mr. President, I wish to point out that we have not passed clause 75 yet. It is to be considered and, therefore, the consideration of this clause will have to be postponed until the Council disposes of clause 75.

The Honourable the PRESIDENT: Is that so?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Yes, Sir.

The Honourable the PRESIDENT: Then, does the House agree to the postponement of the consideration of this clause also till clause 75 is decided?

Honourable MEMBERS: Yes, Sir.

The consideration of clause 76 was accordingly postponed.

Clause 77 (*Local fund where to be expended*) ordered to stand part of the bill.

Clause 78 (*General charges to be defrayed by district local boards*).

Every district local board shall, from the portion of the local fund at its disposal, defray

(*a*) the salaries and other emoluments of all officers and servants maintained under section 119, and the pensions or other retiring allowances, if any, of such officers and servants,

and the gratuities or compassionate allowances payable to the surviving relatives of such officers and servants; and such charges as may be agreed upon for the performance of any services for the board by any officer or servant of the Government;

(*b*) such sum as shall from time to time be fixed by the Government for the payment of the salaries, allowances and contributions for pension, according to the rules from time to time made by the Government, of any officers or servants of the Government employed by the board.

Rao Saheb D. P. DESAI (Karia District): Sir, I move

"That the following proviso be added at the end of the sub-clause (*b*) of clause 78:—

'Provided that the district local board may, in the case of servants or officers permanently transferred from Government service to the service of such board, invest such contributions for pension, in securities or objects approved by Government in this behalf'."

The impression created in the minds of the district local boards is this, Sir, that the contribution for pension that they give to Government is rather greater than what it ought to be and consequently Government makes some profit out of it. I put a question in regard to this matter about a year back, but the Honourable Minister of Education said that no separate accounts are kept of the expenditure by Government in this behalf. Now, under the Primary Education Bill, almost all the teachers employed by the district local boards who rightly belong to Government will be transferred to the service of the district local boards. So, if Government from time to time demand higher charges for the pension contributions of these teachers and also of any servants who have been permanently transferred to the service of the district local board, then I think the district local board will lose a great deal. In the proviso, Sir, I have kept a proper safeguard that the securities or the objects in which such contributions are to be invested may be ordered by Government or approved by Government, and therefore there is no likelihood of any misuse of that money. With these remarks I leave the amendment to the Council.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Mr. President, I wish to make one or two observations on this amendment. The contribution which Government levies on account of pension from the local bodies is not only enormously excessive, but, as the honourable mover pointed out, Government are unable to point out how much is recovered on account of pension contribution and how much is actually paid out. Therefore, local bodies are unable to know the amounts paid by Government, and they have already complained in the matter. They are made to pay much more than what is required. So the amendment would be a fair way of settling the question as to how much is recovered by Government on account of pension contributions and how much is actually paid by them on account of pensions.

Mr. O. ROTHFELD: Mr. President, I beg to oppose the amendment. The sub-clause to which the amendment refers provides for paying certain sums for the payment of salaries, allowances and contributions to pensions. The presumption in the case of a salary or allowance is that that sum is paid over to the person who has earned the salary or the allowance. No question, therefore, of investing ought properly to arise. In the question of contributions to pension they are fixed on a certain scale and that scale takes into account certain actuarial considerations of duration of life, the average duration of life of the persons concerned, and of interest accruing on contributions paid and therefore for the duration of the period during which the premium is paid money must be invested by the person paying and calculating the pension. If, therefore, you take away that pension contribution from the person paying the pension, obviously that person will have to add on to the contribution an amount

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on actuarial considerations equal to the interest lost by the transfer of that sum to another party,—I hope I have made myself clear,—and therefore ultimately the position of the local board, were such an amendment passed, would be actually worse than it is now.

I would also point out that the words in the amendment "servants or officers permanently transferred from Government service" are words which are rather unintelligible. Government servants, as far as I know, are never permanently transferred at all. If they were *permanently* transferred, they would be leaving Government service. Therefore, this in itself, I think, renders the amendment meaningless.

Finally I would only point out that in view of the concession generously given to the local boards in this bill of allowing local funds to be invested anywhere as may be desired by the local board, instead of in the Government treasury as before, I think it seems quite unnecessary to demand any further concessions for the local boards in the way in which the honourable mover wants to do.

Rao Bahadur G. K. CHITALE (Ahmednagar District): The point, Sir, is rather important, as there is going to be a devolution of larger responsibilities and there will probably be a larger draft on Government officers who would be given to the local board service. Up till now, as far as local boards were concerned, there were only a few officers of Government who were lent. In fact, however, Sir, that was a misnomer. They were only lent in name and paid for by the departments themselves. They were paid by the local bodies. However, Sir, the responsibility now which the honourable members are feeling here is this that under the Compulsory Education Act a large number of primary teachers will be taken up by the local boards. That is one thing, and, as other departments also will come to be transferred to the control of local boards, consisting of sub-assistant surgeons, veterinary assistants, and such other officers, their number may be considerable, and all that the local boards desire is that they want to know exactly the liability which they should and ought to take up. At present we do not wish to suggest the agency of local boards by which this liability is to be fixed. The Accountant General at present fixes a certa n percentage to be paid by the local boards to Government for that purpose. By this amendment we wish to change that. He sends to the local boards bills in the case of each officer who is lent for the local board purposes and besides this the local boards have to pay towards the pension contribution, leave allowance, etc., of the Government officers employed by them. Now, instead of making all these payments in cash, the local boards will turn that cash into securities—gilt-edged securities—and hand them over to the Accountant General for safe custody. I hope the point will be appreciated. It is this. After all, Government even on pension side must be making some amount on this. The question so far has been whether Government makes something over this or whether the local bodies lose over it. And then there is a lurking suspicion in the minds of many of us that having regard to the large number of Government servants likely to be drafted into the local bodies in the near future it is just possible that they might be able to make a little amount.

An Honourable MEMBER: What about vested interests?

Rao Bahadur G. K. CHITALE: I think, after all, vested interests are not in danger at all. They will remainas usual. They will have fixed pension contribution and instead of that pension contribution being paid in cash in

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future it will be put at the disposal of Government in gilt-edged securities and so many securities will be put at the disposal of Government into the custody of the Accountant General. I understand, Sir, that, under the circumstances, the local bodies are prepared to meet any deficit arising from the depreciation of these securities, in face of the fact that there is some money to be had in the margin. Under these circumstances, Sir, I do not agree with the honourable member, the Registrar of Co-operative Societies, that this would be impracticable. Nothing is impracticable if it is intended to be done. All that is intended to be done is this, that in lieu of the cash which the local bodies pay to the Accountant General, some account of which is not in a detailed manner available to the local bodies, they will invest their amount in such gilt-edged securities at the end of the year. Who knows, hundred or fifty years hence we may save a large amount as a result of this operation? I do not think that there is anything unreasonable in it. We do not wish to change the system. All that we want to see is that, after all, it is profitable to the local bodies.

Mr. O. ROTHFELD: May I know, Sir, whether the honourable member from Ahmednagar wishes to keep each account separately for each local body?

Rao Bahadur G. K. CHITALE: The Accountant General keeps separate accounts for each local body.

Sirdar V. N. MUTALIK (Deccan Sardars and Inamdars): Sir, I do not wish to say much in support of this amendment after the lucid speech of the honourable member from Ahmednagar. But I must say, Sir, that the honourable member, the Registrar of Co-operative Societies, knows that there is such a business as insurance and something is always gained by it. Pension payments are also on the same level as insurance and, if local bodies are allowed to contribute towards the pension fund in the manner proposed by the honourable mover, I think the local bodies will stand no chance of a loss. On the contrary, Government also need not be anxious that the local bodies will in any way throw an additional burden on Government. Under these circumstances, it is fair that the House accepts this amendment.

The Honourable Dr. R. P. PARANJPYE: Sir, this amendment refers especially to a measure which is to come before the House shortly, because the pension contributions, leave allowance, etc., of the servants of Government employed by the local boards are in dispute at present. Schoolmasters are supposed, I believe, to be lent to the local bodies. Local bodies have to pay Government towards their pension contribution. According to the rules of Government, when a servant is lent outside, the body to whom his services are lent undertakes the liability of paying his salary together with all incidental charges, like pension contribution, leave allowance and so on. When Government employs its servants it does not set aside every year the amount required for their pension contributions. In fact it would be taking money from one pocket of Government and putting it into the other pocket. What Government does is that every year they set aside some amount of money for pensions, super-annuations and so on. If I have a single servant, it would be best in order to avoid all risks to insure for this liability which is quite uncertain. If I have two, the risk would be less uncertain, but it still exists. But when a body has got a very large number of servants, by the laws of averages it is found that the charges will be all practically uniform during each year and consequently whether you transfer a certain amount of money every year from one pocket into the other for pension contributions or consider that so much

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money is paid for meeting the payment on pensions, it is practically the same thing. Similarly people who have only one or two houses usually insure them although they know that on an average they lose, because the insurance companies have after all, to live through the profits they make from the premia. But when a body has got a large number of servants or a large number of buildings it does not face the risk of being called on to pay a large though indefinite amount of money. In this particular instance this sum which Government takes from local boards, towards pension contribution, etc., is the equivalent of the money that would be required on sound actuarial calculation to pay for the pensions of the servants lent. Now the proposal of the honourable member from Kaira might be perhaps feasible, if it was to be applied only in the case of new servants whose services are being entertained by the local boards from the beginning of their career. Even in that case, there is the difficulty about the amount of confidence which the servants would have in the promise of the local body as compared to the promise of the Government. And a man might consider that the security of a local body is not so great as the security of the Government. In the present case, however, the teachers at present employed by the local boards who are Government servants, are to be taken over permanently by the local boards. These are not all new teachers. So, there is at present on Government a part of the liability. A man might have ten years' Government service to his credit, and he may have to put in twenty years more under a local board. Consequently, we have to assess the liability of Government for the ten years that he has put in as a Government servant. If the local bodies were to pay to Government the actual capitalised liability on Government for this fraction of their service then the case would be different; but if they are going to invest the pension contributions for only twenty years, what is Government to do about their liability? In that case, the local body does not take the whole responsibility; Government would also share the responsibility. Supposing the local bodies took over 1,000 teachers from Government who have already had some Government service to their credit, according to the actuarial calculations the amount of responsibility for pension on Government should be assessed and the local bodies should make payments to Government, and that amount of money would be put in a bank. But when the services are of varying duration, when part of their service has been given on one footing and part on the other, you cannot accept an amendment like this. In future of course when the teachers are to be entirely recruited by the local bodies then the local bodies will be asked to provide for pension themselves, or they will be asked to make some provision for a provident fund. For these purposes, a certain amount of money might be invested in gilt-edged securities, and they can manage the business themselves; Government would not want to interfere in the matter. All that Government will see will be whether the business is being managed properly, or whether those funds are being utilised for other purposes. At present, in the case of teachers who are partly under Government and partly under local bodies, I do not think this is possible. In the case of such teachers, the local bodies will have to pay their contributions, and after those contributions have been given, Government will undertake all the liability for their pension when they retire. I do not think that there is anything wrong in that. I do not see how Government is taking away more of the funds of the local bodies than the figure arrived at by actuarial calculations. Those rules have been made on strict calculations which I do not think even my honourable friend from Kaira will be competent to work out. I do not

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believe there is any member of this Council who is competent to work out the actuarial calculations. All that we have done is to take the figures given by actuarial experts in this matter, and I do not think that the amendment ought to be accepted. In the case of other employés, the contributions are not to be taken for all the time. You may engage an officer of Government as a chief officer for four years, and then send him back. In that case of course, this proposal to invest the pension contribution in gilt-edged securities will not do. It applies only in the case of present teachers. I do not think my honourable friend has realised the difficulty in this case. I therefore think that the amendment ought not to be accepted.

Mr. M. A. HAVELIVALA: Sir, I move for a closure.

The Honourable the PRESIDENT: I accept the closure.

Rao Saheb D. P. DESAI (Kaira District): Mr. President, I can reply to the Minister. I will give him only one instance. Under the rules we are made to contribute every year a fixed amount, irrespective of the vacancies that may have taken place in the meanwhile. In my own district there are about 400 schools, and during the year the educational inspector or the deputy educational inspector does not maintain the full strength of teachers in these schools. There are always some vacancies, but, as the board has to pay a fixed amount for the whole strength, obviously there is loss to the board and gain to the Government, and such cases are not rare. We are compelled to contribute every year a fixed sum to the Government coffers. I can very well appreciate the difficulties pointed out by the Honourable Minister in this matter, but my reply to him is that that is the very reason why I have purposely left the whole thing to the discretion of Government. The amount to be fixed every year is left to Government, provided the securities in which it is invested are invested in the name of the local body concerned. Again there is no possibility of any difficulty about part payment of pensions. I may cite an instance. There was a case where the person concerned was a veterinary assistant. He was not entitled to pension in the beginning, the service was not pensionable at the time, but subsequently it was changed into pensionable service. Government called upon or rather recommended the district local board to pay his pension for the period during which he was in the service of the board, and Government paid him the pension for the remaining period. So, the years of service in Government and local board services can easily be calculated, and when a teacher is permanently transferred to the service of a local board, that board can pay from that day a definite contribution for his service and that may of course be invested at the suggestion or orders of the Government in particular securities, and deposited with the Accountant General. In that way, there would be no arithmetical difficulties. To the Registrar of Co-operative Societies I can only say that permanent transfers are likely to come into force in future according to the provisions of the Education Bill, though there was no permanent transfer of any servant up till now. Hereafter, under the Education Bill, most of the teachers and possibly other servants that are engaged by Government will have to be permanently transferred, and, as pointed out.....

Mr. O. ROTHFELD: May I explain that I was not clearing up an administrative possibility, but the legal meaning?

Rao Saheb D. P. DESAI: Then of course, my argument holds. Only when such a contingency of permanent transfer arises, then this proviso is

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applicable. In all temporary transfers this provision may not be necessary. With these remarks I place the amendment before the Council.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, Government have given an undertaking to their permanent servants that they will get pension on retirement. They are transferred to local bodies after their service under Government, and it is Government that will be responsible for their pension. It will be a breach of faith on the part of Government if they do not fulfil their guarantee of pension to their servants. If the amendment is accepted, it will mean that Government should pay them the pension for the period of their service under Government, and for the rest of their service they should be left to the mercy of the local board concerned. I submit that the complaint that the contribution for pension is heavy does not arise. It is the question of guarantee given by Government of pension to their permanent servants. As the clause stands, the local boards will only have to make a contribution to Government, and Government will pay the pension.

The Honourable Mr. H. S. LAWRENCE : Sir, this amendment is out of order as being contrary to section 80C of the Government of India Act. It is proposed that the Government should continue to pay the pensions, but that contributions should not be paid into the public exchequer. I submit this proposal cannot be introduced without the previous sanction of the Governor.

The Honourable the PRESIDENT : Could it not receive the contributions ?

The Honourable Mr. H. S. LAWRENCE : Contributions are to be invested in certain securities and not to be paid into the Government treasury.

Rao Bahadur G. K. CHITALE : What is proposed to do is, whatever the total amount of contribution, that amount do remain in the Government treasury or with the Accountant General.

The Honourable Mr. H. S. LAWRENCE : A certain portion of the public revenue is to be invested, and not to be at the disposal of the Government. It affects public revenue in an intimate manner. It is prejudicial to the management of public revenues by Government.

The Honourable the PRESIDENT : I rule the amendment out of order.

Clause ordered to stand part of the bill.

Clause 79 (*Assignment of certain portions of revenue to municipalities or cantonment committees*).—

(1) Every district local board shall assign and cause to be paid out of the district local fund to every municipality and cantonment committee within the district for which such board has been established a sum equal to two-thirds of the amount of the revenue described in clauses (*b*) and (*c*) of section 75 levied from lands within the municipal district or cantonment subject to such municipality or committee, and may, in its discretion, assign and pay to every such municipality or committee, the whole of the said amount and such amount shall, at the request of the district local board, be ascertained and certified by the Collector.

(2) The sum assigned and paid shall be expended by the municipality or cantonment committee only for such purposes as are described in section 50, or for the remuneration of officers and servants whom it entertains for any of the said purposes : and a portion thereof equal to not less than one-third of the revenue described in sub-section (1) shall be expended by it for educational purposes only, as defined in clause (*d*) of section 50.

Sardar Khan Bahadur A. M. DALAL (Broach District) : Sir, the amendment that I wish to move runs as follows :

Add the following after sub-clause (2) of clause 79, and re-number '(2)' as '(3)' :—

"(2) Every district local board shall assign and cause to be paid out of the district local fund to every village panchayat within the district for which such board has been established

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a sum equal to one-fourth of the amount of the revenue described in clauses (*b*) and (*c*) of section 75 levied from lands within the village subject to such village panchayat and such amount shall, at the request of the district local board, be ascertained and certified by the Collector."

Mr. C. M. GANDHI: I rise to a point of order.

The Honourable the PRESIDENT: I must rule this amenmdent out of order as extending the liabilities of local boards. What is your point of order?

Mr. C. M. GANDHI: The consideration of clause 75 was postponed till the taxation clauses would be taken up.

The Honourable the PRESIDENT: Then let this also be postponed if the House agrees.

Consideration of clause 80 postponed accordingly.

Clause 81 (*Provisions for determining by which boards expenditure should be incurred for other purposes*) ordered to stand part of the bill.

Clause 82 (*How the local fund shall be drawn against*) ordered to stand part of the bill.

Clause 83 (*Accounts to be kept in form prescribed by the Government*).

Accounts of the receipts and expenditure of every local board shall be kept in such form as the Government may from time to time by rule made in this behalf under clause (*f*) of section 133 prescribe, and shall be balanced annually on the last day of every financial year, ending on the 31st March.

Mr. C. M. GANDHI (Surat City): Sir, I beg to move:

"That in clause 83, line 2, leave out the word 'rule' and insert instead the word 'rules'."

It is only a verbal alteration. I think we are making rules.

The Honourable the PRESIDENT: I have ruled that the singular means the plural and the plural means the singular.

Mr. C. M. GANDHI: In this case it is quite clear that we have to make rules.

The Honourable the PRESIDENT: I rule it out as unnecessary and redundant.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Sir, I beg to move the amendment standing in the name of Rao Saheb Harilal Desai:

"That in clause 83, line 3 between the word 'financial' and the word 'year' the words 'or revenue' be added."

I submit, Sir, that my amendment leaves it to the option of Government to settle whether the local boards should follow the financial or the revenue year in the keeping of accounts. Some boards find that the revenue year is more convenient as their receipts are governed by the revenue year.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I accept the amendment.

Amendment carried.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Sir, I beg to move the next amendment standing in the name of Rao Saheb Harilal Desai:

"That in clause 83, lines 4, the words 'ending on the 31st March' be left out, and the words 'as Government may prescribe' be inserted instead."

The Honourable the PRESIDENT: That is a consequential amendment and no speech is required.

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 84 (*Publication of abstract of accounts annually*).

An abstract of the accounts of every local board showing the amounts drawn from the local fund, the charges for establishment, and for all other expenses, the works undertaken, and the sums expended on each work, and the balance, if any, in hand, shall be forwarded by the president of the board every year, as soon as may be after the 31st March, in such form as the Government may from time to time by rule made in this behalf under clause (*f*) of section 133 prescribe, to the Collector or such other officer as the Collector nominates in this behalf and shall be published in the *Bombay Government Gazette*.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : There is a consequential amendment necessary in regard to this clause. I beg to move as follows :

" In clause 84, line 4, delete the words ' 31st March ' and insert instead the words ' end of the year '."

Amendment carried.

Clause as amended ordered to stand part of the bill.

The Honourable the PRESIDENT : Now, clause 85.

Mr. KANJI DWARKADAS : There is a reference to section 75. This clause also may be postponed.

The Honourable the PRESIDENT : I do not know if it affects the clause materially.

Mr. C. M. GANDHI : It won't affect.

The Honourable the PRESIDENT : So, I will put clause 85.

Clause 85 (*Return to be rendered to local boards of actual and estimated income of local funds*) ordered to stand part of the bill.

Clause 86 (*Preparation of annual budget estimates of income and expenditure*) ordered to stand part of the bill.

Clause 87 (*Taluka local boards' budget estimates to be submitted for sanction to the district local board*) ordered to stand part of the bill.

Clause 88 (*Revised or supplementary budget estimates may be made when necessary*) :

(1) Every local board may, at any time during the year for which any such budget estimate has been approved or sanctioned, cause a revised or supplementary budget estimate to be prepared. Every such revised or supplementary estimate shall be considered and approved by the local board and in the case of a taluka local board submitted to the district local board for sanction, in the same manner as if it were an original annual budget estimate.

Re-appropriation to be subject to approval or sanction like budget estimates.

(2) Re-appropriation of funds in a budget estimate may be made from time to time subject to the same approval or sanction as is required for the budget estimate.

Rao Saheb D. P. DESAI (Kaira District) : Sir, the amendment I wish to move is as follows :

" In clause 88 (2), delete all the words beginning with ' the ' and insert instead the following words :—

' such approval or sanction as the district local board deems proper '. "

Reference is here made to the reappropriation statements. Such statements come to district local boards from taluka local boards, not all at one time, but at different periods. If every time such statement comes it is necessary to convene a meeting of the district local board to sanction the reappropriation statement, then it will not conduce to the efficient working of district local boards. What I wish to suggest is that the standing committees authorised by the present bill ought to be delegated the power of sanctioning such reappropriation statements coming from taluka boards.

The Honourable Sir CHIMANLAL SETALVAD: May I point out, Sir, that the amendment as it stands makes no sense, in that the honourable mover does not make it quite clear as to whose sanction or approval is required?

The Honourable the PRESIDENT: Will the honourable member for Kaira explain what he means by it?

Rao Saheb D. P. DESAI: I suggest that the words "of the standing committee" be added after the word "sanction" and also that the word "as" be deleted and the word "of" be inserted instead, the words "deems proper" being in consequence omitted altogether.

The Honourable the PRESIDENT: That is a material alteration and I must therefore rule the amendment out of order.

Clause ordered to stand part of the bill.

Clause 89 (*Budget estimates and reappropriations when to be approved or sanctioned*) ordered to stand part of the bill.

Clause 90 (*Except on a pressing emergency no sum not provided for in a budget estimate to be expended*) ordered to stand part of the bill.

Clause 91 (*Provision as to budget estimates in force when this Act comes into operation*) ordered to stand part of the bill.

Clause 92 (*Audit to be made periodically under the orders of the Government*) ordered to stand part of the bill.

Clause 93 (*Levy of one-anna cess on every rupee of land revenue*).

(1) The Government shall levy, on the conditions and in the manner hereinafter described a cess of one anna or, on an application of the district local board to which the cess is payable made in pursuance of a resolution of the board passed at a special meeting called for the purpose, an increased cess not exceeding two annas, on every rupee of

(*a*) every sum payable to the Government as ordinary land revenue except sums payable on account of any of the charges mentioned in Schedule A, and except sums payable on account of any charge which may be notified by the Government in this behalf and

(*b*) every sum which would have been assessable on any land as land-revenue had there been no alienation of land-revenue:

Provided that any increased cess leviable as aforesaid shall be a multiple of 3 pies.

(2) The Government may, on the application of the local board to which the cess is payable suspend the collection of the cess or any portion thereof in any year in any area in which the Government has declared that famine exists.

Sardar Khan Bahadur A. M. DALAL (Broach District): Is this clause going to be taken up now or has it to be taken up along with other postponed clauses?

The Honourable the PRESIDENT: I leave it in the hands of the House.

Rao Bahadur R. R. KALE (Satara District): I think, Sir, it would be better if this were taken up to-morrow morning. I have found some discussion in the old Councils bearing on the meaning of the word "affect". I still think it would be better if we took up this clause to-morrow first thing in the morning

The Honourable the PRESIDENT: Do you think that you can throw further light on the subject by postponing?

Rao Bahadur R. R. KALE: Yes, Sir. I think we may be able to throw further light.

The Honourable the PRESIDENT: Very well. We will take up the taxation clauses to-morrow, if the House agree.

Rao Bahadur R. R. KALE: We understand, Sir, that you have given us time till to-morrow for the consideration of these clauses.

The Honourable the PRESIDENT: There may be something we would be committing ourselves to, if we postpone these and pass on to other clauses now

Rao Bahadur R. R. KALE: The taxation clauses are independent, Sir.

The Honourable the PRESIDENT: Very well: Then I take it that the House agrees to postpone till to-morrow the consideration of the chapter on taxation.

Consideration of chapter on taxation (chapter VII) postponed accordingly.

The Honourable the PRESIDENT: Now we go on to chapter VIII—Collection of Taxes.

Clause 104 (*Presentation of bill for amount of tax*) ordered to stand part of the bill.

Clause 105 (*In what cases warrant may issue*) ordered to stand part of the bill.

Clause 106 (*Warrant by whom to be signed*) ordered to stand part of the bill.

Clause 107 (*To whom warrant should be addressed*) ordered to stand part of the bill.

Clause 108 (*Power of entry under special order*) ordered to stand part of the bill.

Clause 109 (*Warrant how to be executed*) ordered to stand part of the bill.

Clause 110 (*Sale of goods distrained*) ordered to stand part of the bill.

Clause 111 (*Distraint and sale outside the district*) ordered to stand part of the bill.

Clause 112 (*Fees and costs chargeable*) ordered to stand part of the bill.

Clause 113 (*Appeals to Magistrates*) ordered to stand part of the bill.

Clause 114 (*Liability of lands, buildings, etc., for rates*) ordered to stand part of the bill.

Clause 115 (*Suspension of power to recover by distress and sale*) ordered to stand part of the bill.

Clause 116 (*Power to seize vehicle or animal on non-payment of toll*) ordered to stand part of the bill.

Clause 117 (*Farming of tolls*) ordered to stand part of the bill.

Clause 118 (*Receipts to be given for all payments*) ordered to stand part of the bill.

Clause 119 (*Schedule of establishment to be prepared and sanctioned by district local boards: Chief Officer: Health Officer: Engineer*) ordered to stand part of the bill.

Clause 120 (*Delegation of power to engage officers and servants*) ordered to stand part of the bill.

Clause 121 (*Power of Commissioner to prevent extravagance in establishments*) ordered to stand part of the bill.

Clause 122 (*Punishment and dismissal of officers and servants*) ordered to stand part of the bill.

Clause 123 (*District local boards to frame regulations*) ordered to stand part of the bill.

Clause 124 (*Powers of inspection supervision*).

(1) The Commissioner, Collector or any officer of the Government authorized by general or special order of the Government may—

(a) enter on and inspect any immoveable property occupied by any local board or any institution under its control and management, or any work in progress under it or under its direction, or cause such immoveable property, institution or work to be entered upon and inspected by any other person authorized by him in this behalf in writing; and

(b) call for any extract from the proceedings of any local board or any committee appointed by such board, and call for or inspect any book or document in the possession of or under the control of a local board.

(2) The Collector may—

(*a*) call for any return, statement, account or report which he may think fit to require a local board to furnish; and

(*b*) require a local board to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done by such board, or any information furnished by him which appears to him to necessitate the doing of a certain thing by such board and to make a written reply to him within a reasonable time, stating its reasons for not desisting from doing, or for not doing, such thing.

Mr. G. C. BHATE (Kolaba District): Sir, I beg to move the following amendment:

"In clause 124 (1), after the word 'Government' in line 1, add the words 'not below the rank of the Commissioner or Collector'."

I submit, Sir, that the words as they are are rather vague. They read: "The Commissioner, Collector or any officer of the Government, authorized by general or special order of the Government". My amendment is that the officer to whom such powers can be delegated should not be below the rank of the Collector or the Commissioner. That is, he must be of the same standing. The rank of that officer must not be less than that of the officers already specified. I hope the amendment will be accepted by the Honourable Minister in charge.

Rao Bahadur R. R. KALE (Satara District): May I know, Sir, whether my amendment which really goes a step further, to omit the sub-clause and insert therefor certain other words, can be taken up first?

The Honourable the PRESIDENT: Mr. Bhate, will you kindly allow your amendment to be withdrawn, because I see I ought to put Rao Bahadur Kale's amendment first, and, after the words are left out, then your amendment will come in. Therefore, I wish you withdraw by leave your amendment and I will with the permission of the House give you the right to bring it again.

Mr. G. C. BHATE: Yes, Sir. I ask for leave to withdraw.

The Honourable the PRESIDENT: Will the House allow Mr. Bhate to withdraw his amendment at present in order that it may be moved after the vote on Rao Bahadur Kale's amendment is decided?

Question put and leave granted.

Rao Bahadur R. R. KALE (Satara District): Sir, the amendment which I wish to move is that

"In sub-clause (1) of clause 124, omit the sub-clause and insert therefor the following:—

'The Government shall constitute a standing committee for municipal and local affairs in direct contact with the Minister in charge of Local Self-government to be drawn largely from the elected members of the Legislative Council. Such committee by itself or by any other person authorised by it in this behalf may'."

The object of the amendment, Sir, is that with regard to the powers of control the present clause really is a retrograde clause in my opinion. Whereas the old Act contains merely "Commissioner" and "Collector", the present clause goes on to say "Collector, Commissioner, or any other officer of Government authorised by a special order". Now such an extension of control, I submit, is inconsistent with the relaxation of outside control, and consequently my submission is that the control should exist in the Government, and now that this local self-government is a transferred subject with the Minister at its head, my submission is that it should be the Minister in charge of Local Self-government assisted by the committee of the Council. It would be seen that the Government of India resolution of 1918, which is a very wide and

[Rao Bahadur R. R. Kale]

comprehensive document, deals with the subject, among other things, of control. That resolution in fact recommends the constitution of such a committee to exercise control over the local boards and in fact I borrow these words "A standing committee for municipal and local affairs" from that resolution. In such a body the control should exist. No doubt there may be certain matters which might arise in a case of urgency and for that purpose it will be quite open to give power to the Collector who is on the spot and I have consequently retained in the subsequent clauses the officer "the Collector", but I have omitted altogether from consideration the Commissioner, who is not an officer on the spot and who merely does the work of post office, that is, merely forwards the reports of the Collector to Government. But now that we are going to have a democratic constitution and, as I have said, we have a separate Minister for Local Self-government, there is no need for any matter going to Government through the Commissioner. Formerly, Government consisted of a Governor and two Councillors, and then perhaps the necessity of the Commissioner was felt. But I think with the increased strength of the Government, with a Minister in charge of Local Self-government, it ought to be certainly the Minister who should be entrusted with this power of control, and any matter which requires to be done by men on the spot can be done by a committee, and therefore I have stated in my amendment that "the committee or by any other person authorised by itself on its behalf". I have put in this safeguard in order that certain matters which may be required to be done by a person on the spot may be provided for. I have put the words "any other person authorised by the committee", so that there will be no inconvenience whatever in the exercise of the control both on the spot as well as from the head-quarters. The head-quarters control will be with the Minister and the local control will be exercised by a person who may be a member of this Council representing the district and may be authorised by a special or general order to exercise these powers or duties which are contained in clauses (*a*) and (*b*) and they might be performed by him. It may be seen that in clause 124 (*e*) which is coming later on, I have, instead of the "Collector," mentioned "the committee or any person authorised by it," and of course in clause 125 I have retained the word "Collector", and only recommended omission of the word "Commissioner". These, of course, are consequential amendments which will have to be dealt with in their proper place. Therefore, the Council will, I hope, accept the change I have recommended by this amendment if they are going to have a little advance on the old state of affairs.

The Honourable the PRESIDENT: The word "may" occurring at the end of the honourable member's proposed amendment is already there and therefore I will put the question omitting that word.

Question proposed that clause 124, sub-clause (1), be left out and to insert instead "the Government shall constitute a standing committee for municipal and local affairs in direct contact with the Minister in charge of Local Self-government to be drawn largely from the elected members of the Legislative Council. Such committee by itself or by any other person authorised by it in this behalf."

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, I am not quite certain whether I should support this amendment or not. I do not know what the arguments of the Honourable Minister will be in connection with this. But I think on reading the clause I find it very, very powerfully worded,—

[Sardar Khan Bahadur A. M. Dalal]

that they are more absolute in this bill than in the old Local Boards Act. Perhaps this is probably due to the deeds or misdeeds of the present municipalities in Gujarat, but these powers are very absolute.

The Honourable the PRESIDENT: You say, Government shall constitute a standing committee for municipal and local affairs. You cannot drag in municipal affairs in the Local Boards Act. This is not a Municipal Bill.

Rao Bahadur R. R. KALE: The word 'municipal' might be dropped.

The Honourable the PRESIDENT: You may drop the words 'municipal and local'.

Rao Bahadur R. R. KALE: The word 'local' is necessary because they will deal with local board affairs.

The Honourable the PRESIDENT: Sub-clauses (*a*) and (*b*) refer to local boards. Therefore, it is not necessary to have the words "local board" here. The committee will be for the purposes of the local board. 'Government shall constitute a standing committee in direct contact with the Minister in charge of Local Self-government, to be drawn largely from the elected members of the Legislative Council'.

Rao Bahadur R. R. KALE: Those are the words used by the Government of India.

Sardar Khan Bahadur A. M. DALAL: I do find that they are very absolute, and go very far beyond the powers taken in the old Local Boards Act.

The Honourable the PRESIDENT: We have not yet come to the powers. What you say will be relevant to (*a*) and (*b*), but at present the question is whether the Commissioner and the Collector ought to exercise those powers, or whether they should be exercised by the Minister in association with a standing committee. The debate must be confined to that point only now.

Sardar Khan Bahadur A. M. DALAL: I have nothing to add.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Mr. President, I support the motion and for these reasons. According to the old Act, very often the Collectors were presidents and the Commissioner was a very senior officer. Under the present bill, the Collectors will be absolutely out of the local boards, and the Commissioners will be altogether out of touch with the actual every-day administration of the local boards. They will, therefore, suffer from a want of the knowledge of the every-day administration, which they had under the old Act, because they were themselves at the head of the administration, and they knew the various difficulties which one comes across. In short, under this bill, some of the Collectors and Commissioners may be entirely at sea with respect to the every-day administration of local bodies. On the other hand, the Minister, who is responsible to this House, is the head of the administration of local bodies. The Minister who is largely left to himself will have to depend on the one-sided reports of the inexperienced Collectors or Commissioners. It is just possible that even in small matters, he may sometimes be found to have tripped, and this House may be in the position of trying to put him right or moving a vote of censure against him for such trifling matters. Such a position in a responsible House like this ought to be avoided if possible, and the machinery that will be created for this purpose will be that, instead of relying solely on the reports of Collectors and

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Commissioners which the Minister can avail himself of,—they are the officers of Government and the Minister has every hold on them,—he can, by means of such a committee get the public point of view. When all is said and done, that standing committee should be as small a body as possible, in order that it may be a working body, consisting largely of members of the Legislative Council.

(At this stage the Honourable the President withdrew and Dr. K. E. Dadachanji occupied the Chair.)

I was pointing out the difficulties of the Minister, and how the standing committee could be of assistance to him. It will be the business of the committee and its responsibility to put before the Minister the exact facts which ought to be looked at from the popular point of view. The official point of view is placed before him in the reports of the Collectors and Commissioners. By adopting this procedure, he will perhaps find himself in a better and responsible position to come to a right decision. On the other hand, if he gets only one-sided reports, he may come to decisions which may not be in accordance with actual facts, or else he may take time to come to a right decision, and by that time the mischief may be done. It does appear to me that the present sad state of things in the local bodies of Gujarat is an instance in point. It does appear to me that perhaps if he had a small committee of this House experienced in the actual administration of local bodies, over and above the local officers, it is just possible—I do not say certain—that the pitfalls in which Government found itself might have been avoided. It is one thing to say that we must avoid all difficulties and it is quite another thing to take time by the forelock and come to a definite decision which will avoid all difficulties. To take an instance, is it or is it not true that some steps were found ultimately necessary to take? It may not be necessary at all. If public opinion had been reconciled at the first stage, I may say that it is just possible that the present state of things could have been avoided. After all, the Government and the local bodies have one point in view. They have to attend to every day administration, and the local bodies should not come into conflict with the authorities. Various responsibilities have been imposed on local bodies, and there will possibly be difference of views. In these days especially we have to take into consideration the fact of factious spirit in every village. I am not sure whether it is not possible that any act of a particular body could not be criticised from a point which as a matter of fact would be remedied. There are various points of view, various interests in local areas which are coming into existence, which in every day administration will have to be tackled. For instance, I would say one thing that public springs ought to be available to all classes, and this position may be defended on the floor of the House, and the House will approve of it; but it is the local board outside that is to administer. I know there is a good deal of difficulty in allowing untouchables to draw water from the same well. It is too true. I have seen several instances where Christians are not allowed to draw water, as a result of administrative orders. When these various interests come into conflict, you cannot consider a thing from only a theoretical point of view. Under the name of law and order sometimes you cannot always protect private rights which ought to be upheld. I may give you an instance. In a village the best water-supply tank belonged to a particular community. It was a private property. The mamlatdar of the place

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found it proper that it should, though it was a private property, be acquired by the board and made a similar recommendation. The Assistant Director of Public Health, who visited the place, came to the same conclusion. When the people found that the local authorities and sanitary authorities were agreed, they took law into their own hands. I saw that myself. The Collector himself, who came to know of this, did not consider this a breach of order. As head of the administration I had to go there. I tried all that I could to bring the two parties together, and suggested a compromise, and offered to put up several taps from which all communities might take water. I was told that the question is of private property and that it was being fought out in court. It will not, therefore, be wise to give a practical shape to theoretical ideas. Therefore it is that religious susceptibilities and the like ought to be taken into consideration and provided for.

(As this stage the Honourable the President resumed the Chair.)

If the suggestion is adopted, the hands of Ministers will be strengthened in coming to proper decision. The present control is considered to be a control by iron rule. They have not yet reconciled themselves to the position that the revenue officers or the Collectors may not always co-operate in the right spirit of co-operation in making the administration of local boards successful. It is also possible that when the head of the administration, the president or the vice-president, is not liked, friction will ensue and there will be very many cases which might lead to undesirable results, and the local boards will suffer. From these various standpoints I do think that a standing committee of this nature is desirable. They may be created by the Council or by Government. It does appear to me that in this House a resolution was adopted to be moved asking Government to appoint standing committees for at least Ministers if not for Executive Councillors. But no action has been taken and no action is intended to be taken so far as we know. It is true you cannot avoid the appointment of these committees ; but we think that this is the proper time to join issue and compel the Government under an Act to appoint a committee which is desirable from all standpoints. It is just possible that the House may throw out this amendment. I hope, Sir, that Government will not use it in any way in that direction, because both of us, the Government and the councillors, are at one in desiring that this bill should be successfully worked. The full sympathy of Government is required in working this bill, and I hope, Sir, that this amendment will be carried and the members of the Government bench will also support it.

The Honourable the PRESIDENT : What is the meaning of the words "to be drawn largely" ? That may be proper wording in Government despatches or resolutions, but in a legal enactment it should be precise as to meaning. What does it mean ?

Rao Bahadur R. R. KALE : It means 'mainly'.

The Honourable the PRESIDENT : "Mainly" means 'majority'. Why not use the word "majority"? I do not want any clause to go in in loose terms. The amendment should then be in the following terms :

"The Government shall constitute a standing committee which shall be in direct contact with the Minister in charge of Local Self-government and a majority of whose members shall be appointed from among the elected members of the Legislative Council."

Mr. O. ROTHFELD : Mr. President, I rise to oppose the amendment. In the first place, with all respect for your decision, I must confess that I find myself rather surprised that an amendment which really means a proposal to

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alter the methods of government, the system of government, the system of administration, should have come within the scope of a bill affecting local boards. But granting that this is accepted as a matter of local board administration, that the reconstitution of the ministry is a matter of local board administration, I confess that it is to me a matter of some despondency to find that after so much experience of reformed administration it is still possible for an amendment to be brought forward which so largely ignores all that is implied in administration. I cannot say that I was so surprised at the honourable member from Satara having brought forward this amendment as at the honourable member from Ahmednagar with his own knowledge of administration, with the responsibility which he himself has had.....

The Honourable the PRESIDENT : I am not quite sure that this amendment is in order, because it goes beyond the scope of the bill.

Mr. O. ROTHFELD : That is what I submit, Sir.

The Honourable the PRESIDENT : Where any powers are given to any person or any body in a bill and the bill is discussed at the first reading on that basis, if you want to constitute another authority altogether separate from that, that is a question of principle and it must be discussed at the first reading. Was that discussed at the first reading ?

Rao Bahadur R. R. KALE : I wanted to have a committee of control and I wanted a ruling whether that would be an amendment of principle.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : At the first reading only an advisory committee was discussed.

Rao Bahadur R. R. KALE : My recollection is that my proposal was for a committee of control, but I have no recollection of the words.

Mr. C. M. GANDHI : Sir, I spoke on a standing committee of control.

The Honourable the PRESIDENT : Then the point was raised either by Rao Bahadur Kale or somebody. The amendment is in order.

Mr. O. ROTHFELD : Sir, I was saying that I was not altogether surprised at finding the honourable member from Satara bringing forward an amendment which entirely ignored the very meaning of administration but it was a very painful surprise and I may honestly say that it was a surprise which caused me a great deal of despondency to find the honourable member from Nagar supporting an amendment of this kind. It shows that despite the experience which every member of this Council has had of what exactly is implied in the working of a large department it is still possible for some of them—but I hope only a very few—to ignore all of it when it comes to a practical point. I would ask the Council to consider the point of what exactly is implied by the interposition of a standing committee in the ministry itself. Is there, to start with, in those who desire it, any idea of the number of correspondences per day which have to be settled in regard to local affairs by the Minister and his Secretary ? If it is desired to cope with the papers and that a standing committee should be interposed at a particular moment, is it when the secretary first notes on the papers and deals with them or is it desired that the papers should be submitted by the secretary through the standing committee to the Minister ? Or is it desired that the standing committee should sit day by day with the Minister and that the portfolios of Local Self-government should be dealt with jointly by the Minister and the standing committees ? Is it desired, on the other hand, that it should be left to the Minister to select from his voluminous correspondence just the papers on

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which he is going to consult the standing committee ? And if there should be a dispute between the committee and the Minister whether they should be consulted or not on any papers, to whom should the point be referred for settlement ? Is it seriously intended that the non-official gentlemen who are members of this Council shall sit the whole year round and draw pay for it and also allowances ? Or if that is not contemplated, is it seriously contended that they should meet once a month and come up to Poona or Bombay and that all papers for one month should be kept waiting till they come ? On the other hand, if the Minister is to select exactly what papers he should present, then what on earth is the point of a standing committee ? The Minister is free to consult any member of this House on any point. He will, of course, use his discretion and consult the member who is likely to know most about the matter in hand and not members from Sind on matters about Satara or members from Kanara on matters affecting Ahmedabad local affairs. Moreover, there is the question of expenses connected with the working of a central board. Numerous references have to be made back and forward daily. I have not got at the present moment any exact figures as to the amount of staff in the General Department of the Secretariat. The honourable member for Ahmednagar, who is on the Retrenchment Committee, probably knows those figures better than I do. But I imagine the total number is certainly not in excess of 50 and probably less, and out of this number one-fourth is perhaps dealing with the affairs of local boards. Once you get into the principle of a standing committee, you must provide the requisite machinery for carrying out all the functions of that committee. I can assure this House that I have checked the numbers in England, where there is as a matter of fact no such board or committee but where the Ministry of Health has by this time had to enlarge itself enormously through the absence of a local administration, because there is no intermediate officer like the Collector or Commissioner. There the numbers of clerks in the head office are widely augmented. The Ministry of Health has 8,800 clerks. I do not say you would have such an increase at once, but you must remember that once you centralise the administration, whether by having a standing committee or otherwise, you have to engage a corresponding staff. Where is the money to come from ? Where is the money for extra allowances to come from ? And who is to pay for the travelling entailed in the new arrangements ? With the general point of view made by the honourable member for Ahmednagar—not this point of view in this discussion when he supported this amendment—I have some sympathy. I do consider that it is necessary to ensure close contact between the local officials and the Government. I feel sure that this has not escaped the attention of either the Minister or Government, and that it will be ensured in future. Even if it were altogether true that there is at present no such close contact, I am certain that it will be assured in future. But to try an experiment of a standing committee which has not been tried in any other country in the world except Russia, and there with no conspicuous success, to try to centralise the administration at an enormous cost and to gloss over and confuse the method and the system of administration in the manner suggested would, I submit, be a grave and a very expensive mistake and would lead to endless inconvenience and dislocation in the work of local bodies.

The Honourable the PRESIDENT : The Council is adjourned till 2 p.m. to-morrow, Wednesday the 13th December 1922.

*Wednesday, the 13th December 1922.*

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The Council re-assembled at the Town Hall, Bombay, on Wednesday, the 13th December 1922, at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BELL, Mr. R. D.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CADELL, Mr. P. R.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHIKODI, Mr. P. R
CHITALE, Rao Bahadur G. K.
CLAYTON, Mr. F.
COCKE, Mr. H. G.
COOPER, Khan Bahadur D. B.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DRAKHAN, WADERO MAHOMED PANAH
DUBHASHE, Mr. SHANKAR BALKRISHNA
DWARKADAS, Mr. KANJI
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODAD, Khan Saheb ABDULLA AVJAL
GODBOLE, Dewan Bahadur K. R.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HAVELIVALA, Mr. M. A.

HAYWARD, The Hon'ble Mr. M. H. W.
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA
JADHAV, Mr. B. V.
JENNINGS, Major General W. E.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
KANGA, Mr. J. B.
LALBHAI AMBARAM, Mr.
LALJI NARANJI, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LIGADE, Mr. S. P.
LORY, Mr. F. B. P.
MANSURI, Khan Saheb A. M.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MOHOMED SALAHUDDIN K., Mr.
MOTIRAM, Rao Saheb RUPCHAND
MURPHY, Mr. S. J.
MUTALIK, Sardar V. N.
NELSON, Mr. F.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
PAHALAJANI, Mr. B. G.
PARANJPYE, The Hon'ble Dr. R. P.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SETALVAD, The Hon'ble Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY
SURVE, Mr. A. N.
THAKOR of AMOD, Sardar NAHARSINGJI
THOMAS, Mr. G. A.
TRIVEDI, Mr. G. B.
WOODS, Mr. E. E.

## LOCAL BOARDS BILL (BILL No. XVI OF 1922.)

(Consideration of clause 124 resumed.)

The Honourable the PRESIDENT: Order, order.

Question again proposed that sub-clause (1) of clause 124 be left out and insert therefor the following:—

"The Government shall constitute a standing committee for municipal and local affairs in direct contact with the Minister in charge of Local Self-government to be drawn largely from the elected members of the Legislative Council. Such committee by itself or by any other person authorised by it in this behalf".

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: May I rise, Sir, to a point of order in regard to this amendment? As the amendment stands, Sir, the control from Government is to be transferred to a standing committee under clause 124. That is entirely a new principle. Even if it is accepted, it will require the Governor General's sanction. It is entirely outside the scope of the bill.

The Honourable the PRESIDENT: Why will it require the sanction of the Governor General and how is it outside the scope of the bill?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Because, Sir, when the bill was sent up to the Governor General for sanction, this principle was not included in it. If it is introduced now, it will again have to be sent to the Governor General for sanction.

The Honourable the PRESIDENT: Then according to the Honourable Minister, if the bill is amended by the Council and some sections are made different from those which were submitted to the Governor General, then the whole bill will require the Governor General's sanction again or will not be in order.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: No, Sir. My point is this. Those would be ordinary modifications or amendments. But here it is entirely a new principle, transferring the control from Government to a standing committee.

The Honourable the PRESIDENT: I do not agree at all with the Honourable Minister. There is nothing in the point of order. Whether it is an amendment raising a question of principle and therefore not admissible at second reading is a point of order which it is for the Chair alone here to decide. As to the objection now raised, the Honourable Minister is aware that at the debate on the motion for the first reading I allowed several questions to be treated as details for the select committee and second reading, and that with the general assent of the House, for the reason that several honourable members complained that they could not distinguish between principle and detail and how amendments of principle should be framed. The Council would have thrown out the bill and so defeated the Honourable Minister at the very start if I had not taken the Council that way at these initial stages of the Council's life. The Honourable Minister should not be allowed therefore to go back and on a point of order say the amendment is out of order. Yesterday I did raise that point. Did I not? (Honourable Members: Yes, Sir.) At the first reading I think it was distinctly understood and settled that, if a matter was touched upon and discussed at the first reading debate and then with the general consent of the

[The President]

House it was treated as a detail, then the matter should be left at large for the select committee and second reading. Now does any member wish to address the Council further on this amendment ?

Sardar V. N. MUTALIK ( Deccan Sardars and Inamdars ): Mr. President, in the first place I would point out to the opposite bench that they need not entertain any fear that by this amendment Government control will be taken away and handed over to the committee. A committee will be there. It will advise the Minister also ; and there is nothing in this amendment which says that the advice of the committee is binding. The committee will, so far as I can see from the wording of the amendment, be like an advisory committee. The whole question is that control should not be vested in the Collector and the Commissioner. I think it is quite right that the control should not be placed in the Collectors. They were formerly presidents of the district local boards and now non-officials are appointed as presidents and in that respect the Collectors are on the same level as the presidents. Their position so far, therefore, is equal and I do not think such person of equal position should be treated as a superior to another person of the same position. Commissioners will be out of touch with the affairs of the local boards and they have perhaps to depend solely on their subordinate officers. I do not think it is a very good position, and so far as the members of this House are concerned, they are a part of Government. Although they are not considered to be a most important part, they do form a part of Government. The history of this question is that this is a demand made by the public for a long time. A conference called the Local Self-government Conference was called and that conference considered this committee as very important, and I think in that conference—I was one of the members there—we all unanimously came to the conclusion that it was highly desirable that the control should not vest in the Collector or the Commissioner, but should vest in a body such as the one which this amendment proposes to constitute. I welcome this amendment and hope the House will pass it.

Rao Saheb D. P. DESAI ( Kaira District ): Mr. President, I consider this sort of amendment is necessary and this sort of committee is desirable to help the Honourable Minister. Even under the Government formed after the Reforms Act has come into operation the impression created outside is such that Government's powers in regard to their interests and their affairs are the same as they were before and the portfolio of Local Self-government is not really a transferred one and responsive to public opinion and consequently, any measures or any orders that are passed by the Minister are taken rather in a very suspicious mood and considered to be autocratic. If, therefore, a committee were given to him, and before passing any orders they were referred to the committee, then the one great argument against the autocratic use of powers by Government would go away. Again, there are many administrative difficulties in these local boards which do require that representatives of those areas should be associated with the Minister in arriving at a correct decision regarding the interests of those areas. There are questions regarding medical relief, water supply grants, and civil works grants, and in all these matters if the Minister is strengthened by the decision of a committee then he can allot the necessary funds for the various purposes of the boards. At present since he is not supported by any committee of the House, in case he finds himself in a minority in the Government he can exert very little pressure : but if he is supported by a committee, he goes to the Government and asks for

[Rao Saheb D. P. Desai]

money with probably the whole House to back him up, he will be able to do a lot of good. Similar is the case in England. There there is a local government board, and I think in Bihar or Oudh there is a committee of this sort also. So, I do not understand why we should not have a similar committee. If, however, the Minister thinks that there are so many functions of local boards coming up for the decision of the Minister that it will not be convenient to go on with a committee, then, under the rule-making powers, he can restrict the operations of the committee to those objects which are objects of principle and not of administrative detail. There is, therefore, in my opinion, everything to be gained by the Minister rather than to be lost by the appointment of such a committee.

Mr. KANJI DWARKADAS: Sir, I move for a closure.

The Honourable the PRESIDENT: I accept the closure.

Sardar Khan Bahadur A. M. DALAL: Sir, I want to move an amendment.

The Honourable the PRESIDENT: If the Council decide that the sub-clause should be left out, then there will be the motion for the insertion of those words. Then the honourable Sardar may move his amendment.

Rao Bahadur R. R. KALE (Satara District): Sir, it seems to me that there has been some misapprehension in the mind of the Honourable Minister, as if we are going to take away the powers of the Government and also the powers of the Collector. It is not so. There is a subsequent clause, clause 125, which gives the Collector power of suspending execution of orders, etc., of local boards. That clause gives power to the Collector to have a certain amount of control, and it is maintained intact. The clause reads as follows :—

"If, in the opinion of the Collector, the execution of any order or resolution of a local board, or the doing of anything which is about to be done, or is being done by or on behalf of a local board, is causing, or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace or is unlawful, he may, by order in writing, under his signature, suspend the execution or prohibit the doing thereof."

That clause is maintained. So it is only the subsequent clause by which the Commissioner is to be informed by report by the Collector that is affected. It will be seen that the committee which I propose in clause 124 is to get the report and then comes the ultimate power of the Government as laid down in sub-clause (3) of clause 125 :

"The Commissioner shall forthwith submit to the Government a report of every case occurring under this section, and the Government may revise or modify any order made therein, etc."

Instead of the Commissioner, there may be this committee. I have stated that in clause 125, wherever the word 'Commissioner' occurs the words 'committee as constituted under section 124' should be substituted. There are certain powers which are given under clause 124. I do not mean to say that under clause 125 the committee is to do something. What I said was that it is not as if the Collector is dispensed with altogether. There are certain matters which are laid down to be done under clause 124. It is argued as if we are going to substitute a standing committee and usurping the powers belonging to the Collector or to the Government in all matters in respect of local boards. My submission is that that is not correct. There are certain matters which were referred to the Commissioners before. They are not matters of such urgency, and it is not as if the committee cannot do what the Collector on the spot is expected to do.

[Rao Bahadur R. R. Kale]

Then, it was pointed out by the Honourable Minister that it would not be possible for the committee to ramble about from place to place and enquire into these matters, but I have provided for it by putting in the words 'or any person authorized by it'. So that, it will be seen that there is that provision by which each district may appoint a member or any other person who will be in a position to do exactly what the Collector, who is on the spot at the headquarters, can do.

Then, it was suggested that this is a very extraordinary proposal, which has not been given effect to in any other country. I have not introduced this novel proposal. This proposal has already been referred to by the Government of India in its resolution, and I take the liberty of reading that portion only. It says:

"Such a central body should be in direct touch with the Government and might fitly be presided over by a member of the Executive Council where such exists."

Then it goes on further to say:

"It should further be considered whether in place of a formal board there might not be a standing committee for local and municipal affairs in direct contact with the Government, largely to be drawn from elected members of the Legislative Council."

This is the proposal made by the Government of India and it leaves it to the local Government to consider whether the one or the other cannot be embodied in this matter. With regard to the expenditure, it was stated that the standing committee would require a large amount of money. I am not proposing a local self-government board. That is a different matter altogether. But this is a committee of members who are expected to do the work of the Commissioner. The saving that will be effected by the abolition of the post of Commissioner will far exceed any expenditure which may have to be incurred on behalf of this committee. In other provinces standing committees of legislative councils have been appointed. In Bengal, for instance, there are as many as twelve standing committees, for local self-government, medical and public health, education, excise, land revenue and so on. I fail to see why here Executive Councillors and especially Ministers should fight shy of such committees. Is it not desirable that they should strengthen their hands by the experience of mofussil conditions? I submit, Sir, that a proposal of this kind should be welcome to the Honourable Ministers. I do not think that it is necessary for me to say anything further, and I hope this Council will carry this amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I have listened carefully to the speeches of the various members on this amendment. Firstly, I shall take up the arguments advanced by my honourable friend from Satara. He said that there are standing committees in other provinces; but I wish to tell him that they are standing committees which do not usurp the functions of the executive. There they are in the position of advisory committees. If the honourable members want standing committees here, they must bring a separate resolution before the Council. As regards the expenditure that will be required in connection with the standing committee, he suggests that the saving effected by the abolition of the post of the Commissioner may be utilized for this purpose. There I submit he is introducing a motion for which the previous sanction of the Governor is necessary, for it is a charge on the provincial revenue. He suggests a non-official standing committee, and says that the expenses of this committee.

[Khan Bahadur Shaikh Ghulam Hussain]

should be borne by Government, which is contrary to section 80C of the Government of India Act. That section says :

"It shall not be lawful for any member of any local legislative council to introduce, without the previous sanction of the governor, lieutenant-governor or chief commissioner, any measure affecting the public revenues of a province, or imposing any charge on those revenues."

Thus, under section 80C he must have the previous sanction of the Governor for bringing such a motion for a standing committee whose expenses are to be a charge on the public revenues.

The Honourable the PRESIDENT : May I point out to the Honourable Minister that section 80C has no relation to such purposes ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I am replying to the proposal of the honourable mover of the amendment that the expenses should be borne by Government.

The Honourable the PRESIDENT : There is nothing express or necessarily implied in the amendment about the expenses, and therefore section 80C does not apply. The objection raised as a point of order is not in order.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : If the Government says that this expense is thrown on us without our previous consent, then the standing committee will become a dead body. Honourable members know that the finances of the local boards are not in a good condition, and the boards cannot pay all the travelling and other expenses of the members of the proposed standing committee.

My honourble friend referred to the Government of India resolution of 1918. He said that the standing committee was approved by the Government of India. But the fact is that the Government of India suggested to local governments for their consideraton the appointment of these advisory committees. The wording of the resolution is as follows :—

"It should further be considered whether in place of a formal board there might not be a standing committee for local and municipal affairs in direct contact with the Government, to be largely drawn from elected members of the Legislative Council."

It was simply a suggestion, and they know very well that it was impracticable. On the one hand, we have a retrechment committee with a view to effect economy, and on the other hand, a large number of advisory committees are proposed as a heavy charge on the public revenues. In the same resolution referred to by my honourable friend, the Government of India say :

"The Government of India recognise that the powers of Commissioners and Collectors should be maintained but they would suggest for the consideration of the provincial governments the constitution of a central body which should co-ordinate the experiences of the local bodies and provide improved control and guidance by entertaining further expert inspecting establishments, if necessary."

The Government of India did not suggest that you should appoint a standing committee and deprive the Collectors and the Commissioners of their powers of control.

Now, Sir, there are only two systems of control, centralised and decentralised. Centralised control obtains in England : the whole control there is centralised in the ministry and the ministry enforce their orders through their own paid agents. They have inspectors, inspectors-general and a very large establishment. This system was considered by the Government of Bombay and rejected because our province cannot afford such large sums of money as

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are involved in centralisation. The system prevailing in India and in France is the system of decentralisation. Matters of policy are decided by the Minister with the Governor and powers of ordinary control are decentralised and entrusted to the man on the spot. We have here Collectors and Commissioners, and in France they have *prefects*, I have never heard of the existence of this sort of standing committee anywhere.

Now, Sir, taking the amendment as it stands, what does it propose? It proposes that the standing committee for local affairs shall be in "direct contact with the Minister in charge". The Honourable member has not explained to the House what he means by "direct contact". Does he mean that wherever the Minister goes the standing committee should go with him? If the Minister goes to Poona, should the standing committee go with him? Or when the Minister goes to Mahableshwar, should the standing committee go there? Who should pay the expenses? He says that Government should pay the expenses. When you force Government to accept the amendment and they do not pay the expenses, what is the result? The standing committee cannot work. Then again, Sir, can the local boards bear all the expenses of the standing committee? You are complaining that the financial position of the district local boards is very bad even as it is.

Then, the next suggestion was that they might carry on correspondence direct. Then, too, what will be the result? The standing committee will require a certain establishment, and when this additional burden is thrown upon the Minister he will need some additional establishment for the purpose. That means throwing an additional burden on the provincial revenues.

Again, Sir, another point is that the majority of the members are to be elected from among the members of the Legislative Council. Now, what is our present system? Each district has a Collector and each division a Commissioner, and they do the work and we have not to pay anything extra. But if we substitute a new agency—this standing committee—in place of the Collectors and Commissioners, we must provide in the standing committee at least one member for each district. What will be the result? We shall have to elect to this committee at least 27 members. If instead of 27, we have only 5, how will the five members come to know about the working of the various districts? They will have to go touring in the 27 districts of the Presidency. This again, is a question of finance.

I have just shown that if we replace the present agency of Collectors and Commissioners by a standing committee, we ought at least to have in that committee one member for each district. Then, how will the members of the standing committee decide various questions? Will they have regular meetings? Where is the procedure for it in the amendment? What will be the quorum of this standing committee? Sir, I submit, there are so many defects in this amendment and it is most impracticable. Who should decide where they should meet and what their duties should be? It is very easy to move an amendment that there ought to be a standing committee, but I put it to this House, how will that standing committee work?

Then, Sir, who will be the members of the standing committee? Suppose the Government decides that there ought to be a standing committee, naturally the Council will elect to that committee those members who are presidents, vice-presidents or members of local boards, because, only those members will

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have experience of the working of local boards. The Council will take into consideration whether a member has had experience of the working of local boards before electing him to the standing committee. Then, what will be the result? It will mean that some members of the standing committee will sit in judgment on their own work.

The Honourable the PRESIDENT: The honourable mover of this amendment read out from some resolution. Was that a resolution of the Government of India or the Government of Bombay?

Rao Bahadur R. R. KALE: Of the Government of Bombay, Sir.

The Honourable Mr. M. H. W. HAYWARD: Sir, I should like to rise to the point of order whether this amendment is at all in order. I wish to raise a most important point, a radical point.

Mr. M. A. HAVELIVALA: I rise to another point of order on the point of order. Can a point of order be raised at a late stage like this?

The Honourable the PRESIDENT: A point of order can be raised at any time before the Council's decision is taken on a motion, even just before I put the amendment and collect the voices.

The Honourable Mr. M. H. W. HAYWARD: I submit, Sir, that this amendment is vague. What does this amendment mean? The committee is to be in "direct contact" with the Minister. What does that mean? Who is to decide how the committee is to come in direct contact with him? Are they to assault him or hit him? Or are they in some less violent manner to control him? The committee is next to be "drawn largely".....

The Honourable the PRESIDENT: No, that wording has been amended. The amendment now runs:

"The Government shall constitute a standing committee which shall be in direct contact with the Minister in charge of Local Self-government and a majority of whose members shall be appointed from among the elected members of the Legislative Council."

The Honourable Mr. M. H. W. HAYWARD: I submit that makes the amendment worse than it was before. It emphasizes two very serious constitutional objections to this amendment. It would in the first place diminish the powers of the Minister conferred upon him by the Government of India Act. The position of the Minister is laid down in sections 49 and 52 of the Government of India Act. The Governor in consultation with the Minister is the authority to pass executive orders in relation to transferred subjects. This amendment would provide that the Governor and the Minister should not so pass executive orders, but that the executive orders in these matters should be passed by the Governor and the Minister controlled by a committee of which the majority should be drawn from this Legislative Council. I submit that it is unconstitutional to endeavour to limit the powers of the Minister in that manner in conflict with the provisions of sections 49 and 52 of the Government of India Act. I submit further that it is unconstitutional to endeavour to confer executive powers on a committee—practically a committee of the Legislative Council. It is converting a consultative body into an executive body and I submit that for that second reason also, this amendment is unconstitutional and out of order as being contrary to the Government of India Act.

Rao Bahadur R. R. KALE (Satara District): I leave it to the Chair to decide whether the point of order raised is a point of order at all. It seems to be nothing more than an argument.

The Honourable Mr. H. S. LAWRENCE : Sir, this amendment wishes to establish a new department of Government. This committee must have an inspecting agency. This inspecting agency must be established presumably throughout every district. It must be a very expensive agency because it has to be granted powers of supervision and inspection over unofficial gentlemen of the position of presidents of district local boards. That would make an extraordinarily huge demand on the public exchequer.....

The Honourable the PRESIDENT : As long as there are those words in the amendment, I do not think I can take notice of anything else on the ground that it may entail expense. As I have already ruled, that point of order is irrelevant.

The Honourable Mr. H. S. LAWRENCE : It is a matter of serious concern to Government.

Rao Bahadur R. R. KALE : I have nothing to say beyond doubting whether the point of order raised by the Honourable the Home Member is a point of order.

The Honourable the PRESIDENT : An amendment when the Council is asked to incorporate it in an enactment, should be workable, precise, effective and, as I have said before, in the language of the Speaker in the House of Commons, it should be "reasonably complete". Here the words "in direct contact with the Minister" are vague. The honourable member for Satara informs the Council that he has borrowed those words from a Government of India resolution. A resolution is not an enactment and in a resolution words may be used in a rather loose manner. That I don't know and is not to the purpose here.

Rao Bahadur R. R. KALE : The rule-making section is wide enough to provide for machinery and all other things.

The Honourable the PRESIDENT : When in a clause you merely provide for the appointment of a committee, the rule-making power of itself is not enough to authorise Government to define the words "in contact with the Minister" and either to enlarge or limit their scope, whatever they mean, if the enactment itself does not define them and does not authorise Government either to define them by rules. It is for the courts alone, not for Government or any one else, to interpret the words of a statute and bind all by their interpretation. Hence care should be taken to make the amendment clear and precise in wording. I rule the amendment out of order.

Mr. G. C. BHATE (Kolaba District) : Sir, I move that

"In sub-clause (1) of clause 124, line 1, after the word 'Government' add the words 'not below the rank of the Commissioner or Collector'."

My object, Sir, in moving this amendment is that by this clause powers mentioned therein are given to the Commissioner, Collector or "any officer" of the Government, and my submission is that that officer should be not below the rank of the officers already mentioned in the clause or that he should be of the same rank as those officers. If the clause stands as it is, even a mamlatdar, who is below the rank of the Collector, may be authorised by a general or special order to inspect and to have access to the proceedings of the board or to exercise the powers of supervision given by this clause.

The Honourable the PRESIDENT : What is meant by the words "not below the rank of the Commissioner or Collector" ? What officers are not below the rank of the Commissioner or Collector besides the Commissioner or

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Collector himself? The clause says "Commissioner or Colector". They are there. Then the clause says "or any officer of the Government". I rule this amendment out of order as vague.

Rao Bahadur G. K. CHITALE: Sir, I beg to point out to this House with great humility that the wording "Commissioner, Collector or *any officer of the Government*" meaning up to a peon, is as vague as anything and that therefore the whole clause should not be accepted.

The Honourable the PRESIDENT: I believe the word "officer" is a term which is distinguished from the term "menial servants". Unfortunately I cannot put my finger upon it, but I believe the word "officer" is defined somewhere. A peon is not an officer. A peon is considered a menial.

Mr. C. M. GANDHI: In municipal rules the distinction made is this: certain employees drawing a pay above a certain amount are called officers.

The Honourable the PRESIDENT: That itself shows that a peon is not an officer.

Rao Saheb D. P. DESAI: Any policeman, even if he were a police peon, is called a police officer.

Clause ordered to stand part of the bill.

Clause 125 (*Collector's power of suspending execution of orders, etc., of local boards*) ordered to stand part of the bill.

Clause 126 (*Extraordinary powers of Collector in case of emergency*).

(1) In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which a local board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the local board.

(2) If the expense and remuneration are not so paid, the Collector may direct the officer in charge of the treasury or bank or society in which the local fund is kept to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hand.

(3) The Collector shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

Mr. C. M. GANDHI (Surat District): Sir, I move that:

"In sub-clause (2) of clause 126, line 7, after the words 'is kept' add the words 'or the whole or portion thereof is deposited or lent on interest'."

The clause says if the expense and remuneration are not so paid, the Collector may direct the officer in charge of the treasury or bank or society in which the local fund is kept, etc. Now I want to add the words "or the whole or portion thereof is deposited or lent on interest."

I do not know, Sir, whether the amendment is quite necessary, but I want the Honourable Minister not to shake his head but to consider it coolly, because I put it for consideration on account of certain difficulties that have arisen. In the case of the Surat municipality, when an officer was appointed, under section 176 of the District Municipal Act, the Commissioner ordered the bank manager not to pay a certain amount. I think thereupon some counsel in Bombay were consulted and they gave it as their definite opinion that the bank does not keep the money. It only stands in the position of an ordinary banker, and therefore the order served upon the bank will not be appropriate. The amount was paid. To meet such a contingency and in order that such a contention may not be successfully raised I want to have the words as I have suggested, added so that they may include a case of a bank with whom the money is deposited or lent on interest, because it was then argued in the

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case of the Imperial Bank deposit where the municipality had it on interest that it could not be said that the money was kept.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I accept the amendment, Sir, on behalf of Government.

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 127 (*Power of the Government to provide for performance of duties in default of local board*).

(1) When the Government is informed, on complaint made or otherwise, that a local board has made default in performing any duty imposed on it by or under this Act, the Government, if satisfied after due enquiry that the local board has been guilty of the alleged default, may fix a period for the performance of that duty:

Provided that no such period shall be fixed unless the local board has been given an opportunity to show cause why such order shall not be made.

(2) If that duty is not performed within the period so fixed, the Government may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the local board.

(3) If the expense and remuneration are not so paid, the Government may direct the officer in charge of the treasury or bank in which the local fund is kept to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hands.

The Honourable the PRESIDENT: There again the words must occur. I think it is a consequential amendment.

Mr. C. M. GANDHI: Yes, Sir. It is consequential, and the words must be there.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I want to suggest one addition, Sir, in sub-clause (3) of clause 127, namely, the addition of the words "or society" to make it consistent with clause 126, in which those words appear. The amendment I move will be as follows:—

"Add after the words 'treasury or bank' in line 11 of sub-clause (3) of clause 127, the words 'or society'."

Amendment carried.

The Honourable the PRESIDENT: Now, Mr. Gandhi can move his amendment.

Mr. C. M. GANDHI (Surat City): My amendment, Sir, is:

"After the word 'kept' in line 11 of sub-clause (3) of clause 127, add the words 'or the whole or portion thereof is deposited or lent on interest'."

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 128 (*Inquiry into affairs of local board*) ordered to stand part of the bill.

Clause 129 (*Power of the Government to dissolve or supersede local boards in case of incompetence, default, or abuse of powers*) ordered to stand part of the bill.

Clause 130 ((*Reconstitution of local board after dissolution*) ordered to stand part of the bill.

Clause 131 (*Consequences of supersession of local board*).

When a local board is superseded—

(*a*) all powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as the Government from time to time appoints in that behalf: and

(*b*) all property vested in the board shall, during the period of supersession, vest in the Government.

Mr. C. M. GANDHI (Surat City) : The amendment which I wish to move, Sir, runs as follows :—

"At the end of sub-clause (*a*) of clause 131, add the following words :—

'He or they may appoint a person or committee or committees and delegate to them all the powers which the board could have delegated to a person or committee under the Act and also get such a person or committee to perform duties which a board could have got done by a person or committee.'"

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I do not think, Sir, there is any need for such amendment, because clause 38 empowers the board to appoint committees. When the district local board is dissolved, the person or persons who are appointed will have all the powers and duties of the board. Under that section they can appoint committees.

Mr. C. M. GANDHI : So far, the Honourable Minister is right, Sir, that the person or persons appointed can appoint committees. But where is the power given to the committee or committees to act and exercise all the functions of the board ?

The Honourable the PRESIDENT : When you appoint a committee, when you delegate powers, when power is given to a body to appoint and delegate powers, it means that the agents can perform any or all of the duties to be performed under the principal section in exercise of the powers delegated.

Mr C. M. GANDHI : Under that section, Sir, the board is authorised to appoint committees. Beyond that the Act does not empower. So the position would be this. The person or persons may appoint committees, as the board is authorised to appoint committees. But whether the committees so appointed shall have all the powers and duties of the board is a thing which remains unprovided for.

The Honourable the PRESIDENT : What section is that ?

Mr. C. M. GANDHI : I will refer to it, Sir. It is section 38. It reads :

"A local board may appoint committees consisting of such members as the local board may decide or any member or honorary or stipendiary officer of the board to exercise the powers and perform the duties of the local board in respect of any purpose ; not being where a public health committee has been appointed," etc.

Government is authorised to appoint a person or persons to take charge ; they can appoint a committee.

The Honourable the PRESIDENT : This refers to a superseded local board, not a board that is not superseded. Therefore, Mr. Gandhi is right in tacking on this power. I do not think, when a local board is superseded, power is given to Government to delegate its duties.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Powers have been given to the committee.

The Honourable the PRESIDENT : They are really not a board. They come into the place of the board for some time, and I doubt very much whether section 38 will apply. But you can consult the Advocate-General.

Mr. C. M. GANDHI : A point like this was raised in the Punjab and decided in the way in which I have suggested it should be done.

The Honourable the PRESIDENT : So far as I can see, you are right.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I have no objection to accepting the amendment.

Mr. C. M. GANDHI : Then I formally move it.

Question put that

" At the end of clause 131 (*a*) add :—

'Such person or persons may appoint a person or a committee or committees and delegate to them all the powers which the local board could have delegated to a person or committee under this Act, and empower such person or committee or committees to perform the duties which a board could have delegated.' "

and agreed to.

Mr. C. M. GANDHI (Surat City) : Mr. President, the next amendment, which stands in my name, is as follows :

" In section 131 add a clause (*c*) as follows :—

'When more than one person are appointed to exercise the powers and perform the duties of the board, they may sue or be sued by one of them authorized to sue and be sued on behalf of the rest by a resolution duly passed.' "

The Honourable the PRESIDENT : The amendment that I put will be :

" In clause 131 add a sub-clause (*c*) as follows ;—

'When more persons than one are appointed to exercise the powers and perform the duties of the local board, such persons may authorize one or more of their number to sue or be sued on their behalf.' "

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 132 (*Powers of the Government and of Commissioners over Collectors, etc.*) ordered to stand part of the bill.

Clause 133 (*Purposes for which rules and orders may be made*).

The Government may by notification in the *Bombay Government Gazette* from time to time make rules, or orders, consistent with this Act

(*a*) prescribing the number of members of each local board, the proportion of the elective and nominated members for each local board and the number of members to be elected by each constituency ;

(*b*) determining the mode in which and the places at which, and the authorities, if any, under whose supervision elections of members of local boards shall be held, and the manner in which votes thereat shall be recorded, and how and by whom the results of such elections shall be declared ;

(*c*) prescribing such general conditions as shall seem fit as to the manner in which the business of local boards shall be conducted ;

(*d*) prescribing, for the purposes of clause (*i*) of section 50, the conditions under which, and the rates at which, payment of travelling expenses shall be made ;

(*e*) prescribing for the purposes of proviso (*b*) to section 80, the charges to be defrayed by each district local board on account of primary education, the extent of the independent authority of district and taluka local boards in respect of education and their relations generally with the Government Educational Department and with each other in educational matters ;

(*f*) prescribing, for the purposes of sections 83, 84 and sub-section (1) of section 86, the form in which the accounts of local boards shall be kept and the forms in which their abstracts of accounts and budget estimates shall be prepared and regulating the audit of local board accounts ;

(*g*) regulating, for the purposes of sections 120, 122 and proviso (*i*) to section 123, the appointment, control, punishment and dismissal of the officers and servants of local boards and the extent of contributions to the pensions and leave allowances of Government officers employed by local boards ; and

(*h*) generally, for the guidance of local boards and Government officers in all matters connected with the administration of this Act and not therein specially provided for.

Rao Bahadur R. M. NILKANTH (Ahmedabad District) : The amendment I wish to move runs as follows :

" At the end of clause 133 add the following proviso :

' Provided that rules made under this section shall be made after previous publication.' "

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I accept the amendment.

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 134 (*Penalty for member, officer or servant of a local board having an interest in any contract, etc., with that board*) ordered to stand part of the bill.

Clause 135 (*Members, etc.; of boards to be public servants*) ordered to stand part of the bill.

Clause 136 (*Limitation of suits*) ordered to stand part of the bill.

Clause 137 (*Acquisition of land*) ordered to stand part of the bill.

Schedule A ordered to stand part of the bill.

Schedule B ordered to stand part of the bill.

Schedule C ordered to stand part of the bill

Schedule D ordered to stand part of the bill.

Schedule E ordered to stand part of the bill.

The Honourable the PRESIDENT: Now, we come to the postponed clauses. With regard to clause 75, the Advocate General and the Legal Remembrancer have given their opinion that Rao Bahadur Kale's amendment requires the previous sanction of His Excellency the Governor under section 80C of the Government of India Act. Have you got anything to say, Rao Bahadur?

Rao Bahadur S. D. GARUD (West Khandesh District): Sir, I have seen that opinion and I beg to point out that section 80C does not, in my opinion, apply to this amendment, and therefore the amendment is not out of order. The two important expressions I would request you to note are particularly "introduce a measure" and "affecting". Section 80C of the Government of India Act says:

"It shall not be lawful for any member of any local legislative council to introduce, without the previous sanction of the Governor, any measure affecting....."

Now, in the first place, we have to see whether an amendment would come under the expression "introducing a measure".

The Honourable the PRESIDENT: I want the whole argument to be narrowed down to the point referred to yesterday, that is, to the meaning of the word "affect".

Rao Bahadur S. D. GARUD: There are, Sir, two words.....

The Honourable the PRESIDENT: If the Rao Bahadur will not confine himself to the point under consideration, I cannot allow him to argue.

Rao Bahadur S. D. GARUD: I shall confine myself to the word "affect", but I think that my argument about the other also may perhaps influence your.....

The Honourable the PRESIDENT: Rao Bahadur Garud must take my hint.

Rao Bahadur S. D. GARUD: The meaning of the word "affect" has been found from Murray's New English Dictionary. There different sentences are given to illustrate the use of the word "affect".

The Honourable the PRESIDENT: Murray's Dictionary I saw yesterday and I quoted here.

Rao Bahadur S. D. GARUD: Sir, this particular extract gives the sentences by which the meaning of "affect" is illustrated. If you see this, you will come to the conclusion that the word "affect" does not convey the meaning that is sought to be put upon it. May I read a sentence, Sir?

The Honourable the PRESIDENT : From what ?

Rao Bahadur S. D. GARUD : From Murray's Dictionary.

The Honourable the PRESIDENT : Yesterday I spent a whole hour on this question, and I saw Murray's Dictionary too and informed the Council of the meaning of the word as given there. I want to know what the Rao Bahadur makes of that. Apparently the Rao Bahadur cannot solve the question of order. Now let me try Rao Bahadur Kale.

Rao Bahadur R. R. KALE (Satara District) : Sir, I must say that the cess on excise is on the same footing as the cess on land revenue. In either case we adopt the basis of the revenue for taxation. In the one case we take the land revenue as the basis : in the other also we adopt the basis of the abkari revenue. My submission is that in neither case does the cess affect the revenue. That is all.

Rao Saheb D. P. DESAI (Kaira District) : Sir, I may venture here to offer some remarks to make the question clear. The abkari revenue is derived, as the Minister said yesterday, from duties levied from the contractors or big merchants at a fixed rate per gallon, say Rs. 2 or Rs. 3 or more per gallon. What Rao Bahadur Kale desires is that a one anna cess should be levied per rupee of that rate for the purpose of local boards. After all, Sir, you will be good enough to see to the intention and spirit of section 80C rather than the literal meaning of it. That is the only thing I have to say in this connection. The rate of tax or duty per gallon is not settled purely by auction. It is settled in the same way as land revenue. As you levy Rs. 2 or Rs. 3 per acre for land revenue, Rs. 2 or Rs. 3 per gallon is fixed by the Minister here, and with this tax as a basis a one anna cess may be levied from the contractors. Therefore this is not a charge or tax affecting the public revenues.

The Honourable the PRESIDENT : I cannot undertake to decide upon it at this time, for it will be usurping the functions of the Court. Supposing this amendment is accepted by the Council and the bill is passed into law and any abkari contractor is taxed in accordance with this amendment, then he may refuse to pay the tax and file a suit and the ultimate authority to decide the question which is now argued before me will be a court of law. If, therefore, I give my ruling one way or the other, it will be deciding a point as to the interpretation of an Act—not of the Standing Orders. In these circumstances, I will follow the procedure generally adopted in such cases of doubt in the House of Commons, that is, turn to the legal advisers of Government.

Rao Bahadur R. R. KALE : If we pass this bill, then it becomes an Act. The man cannot go to court at all.

The Honourable the PRESIDENT : He can, if the tax is invalid for want of previous sanction.

Rao Saheb D. P. DESAI : But the opinion of the legal advisers has not been accepted by Government.

The Honourable the PRESIDENT : They have put it in writing. It has been ruled that the Chair in case of difficulty and doubt as to the interpretation of a statute of Parliament may seek advice from the responsible legal advisers, for it is not the province of the Chair to interpret legal enactments. In this particular case, I have taken the precaution that the Advocate General and the Legal Remembrancer shall give their advice for my guidance in writing, and at the same time before making up my mind these opinions were shown to Rao Bahadur Kale and Rao Bahadur Garud.

Sardar Khan Bahadur A. M. DALAL (Broach District): May I point out that.....

The Honourable the PRESIDENT: I cannot allow any more speeches unless there is a motion in due course.

Clause ordered to stand part of the bill.

Clause 76 (*Local fund by what boards to be expended*) ordered to stand part of the bill.

Clause 79 (*Assignment of certain portions of revenue to municipalities or cantonment committees*):

(1) Every district local board shall assign and cause to be paid out of the district local fund to every municipality and cantonment committee within the district for which such board has been established a sum equal to two-thirds of the amount of the revenue described in clauses (*b*) and (*c*) of section 75 levied from lands within the municipal district or cantonment subject to such municipality or committee, and may, in its discretion, assign and pay to every such municipality or committee, the whole of the said amount and such amount shall, at the request of the district local board, be ascertained and certified by the Collector.

(2) The sum assigned and paid shall be expended by the municipality or cantonment committee only for such purposes as are described in section 50, or for the remuneration of officers and servants whom it entertains for any of the said purposes; and a portion thereof equal to not less than one-third of the revenue described in sub-section (1) shall be expended by it or educational purposes only, as defined in clause (*d*) of section 50.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, I beg to move the following amendment:

"Add the following after sub-clause (1) of clause 79, and re-number sub-clause '(2)' as '(3)':—

'Every district local board shall assign and cause to be paid out of the district local fund to every village panchayat within the district for which such board has been established a sum equal to one-fourth of the amount of the revenue described in clauses (*b*) and (*c*) of section 75 levied from lands within the village subject to such village panchayat and such amount shall, at the request of the district local board, be ascertained and certified by the Collector.'"

In this connection, at the first reading of the bill as well as at the second reading, I made certain observations on this aspect of the matter. The village panchayats are responsible for the supply of water, cleansing of public wells, drainage, tanks and wells, maintenance of roads, minor roads and bridges and so on. The duties of panchayats are more onerous and comprehensive than those of the taluka local boards. The taluka local boards have no responsibilities in respect of sanitation and public health. Therefore 25 per cent. out of the one anna cess should be transferred to the village panchayats. In the Village Panchayats Act no provision has been made for this transfer. The Honourable Minister has answered this by stating that the boards can make contributions from their own revenue to the panchayats, but when the boards themselves are in dire need of money, it will be very difficult for the boards to curtail their own budgets and make any appropriations from their own revenue, but if the Council embodies it in the bill, panchayats will start on very good basis on their new careers. I have made these observations twice and hope the Council will accept my suggestions.

Rao Saheb D. P. DESAI (Kaira District): I support the amendment moved by the honourable member from Broach. There has been a long-standing complaint of about fifty years that cess-payers are not getting either the full or any value from what they have been paying and any one who has experience of villages must have experienced this complaint of the rural population. In the interest of the villages themselves and in the interests of the local bodies themselves, and if you desire to popularise local self-government in the villages also by starting panchayats, such a clause is very, very necessary. Again, Sir, the Village Panchayats Act has been on the statute book for the last three or

[Rao Saheb D. P. Desai]

four years but till now there are very few village panchayats formed under that Act, and even this small number not in a good condition. The reason is that villages or rather the people in the villages being very poor, they do not come forward to pay house-tax. They say they have been paying one anna cess for the same objects for such a long time without any benefit and now an attempt is being made to thrust upon them house-tax, and that as they have not received any benefit from the one anna cess which they have already been paying it is doubtful whether this house-tax is going to do them any good. In order to popularise that Act—I mean the Village Panchayats Act—and in order to induce villages to form themselves into panchayats and to induce poor villages to have the benefit of panchayats, such a clause is useful. I touched upon this matter in the select committee, Sir, but, of course, I could not bring the select committee to think with me in this respect. I think my honourable friend from Ahmednagar should rather consider it very necessary that village panchayats should be formed in every village and that a sort of income may be given to those village panchayats distinct from that of the local boards, and that they should not be left at the mercy of the district local boards.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, I oppose the amendment for these reasons. A larger amount of that general contribution which is made by the district boards is intended to be made for village panchayats, so that the poorer villages may get the benefit of the wealthiness of richer villages, and I will put before the House a concrete case. Suppose a richer village has got a village panchayat and is able to obtain by imposition of a house tax a certain amount. Now, that will go to themselves, and they will also claim one-fourth of the cess with that addition. Where will the poorer villages be unless a greater contribution is made from the richer classes and brought for the needs of the poorer villages? I do not know, Sir, the Kaira district. But I know that in my district, where there are a few rich villages and where most of the villages are poor, whatever tax could be extracted from the richer villages would be available for poorer villages. That is one point.

Then there is another. The village panchayats at present do not bear the cost of primary education. They do not bear also the other costs of say medical relief or sanitary relief. All that will be put upon the district local boards. The richer villages will then require their resources to be kept for easing of the taxation which they are empowered to levy. This, Sir, will work a lot of injustice and hardship on poorer people. It is, therefore, better that the whole of this is put into hotchpotch of the district local board, which is going to be elected on broader basis and in which all villages will be represented in groups, and when that election comes everybody will have a voice and the deciding voice will be that of the majority. The course proposed by the amendment would be prejudicial to the poorer villages and would be altogether unworkable, and I am afraid the result would be to fatten the richer villages.

*After Recess*

The Honourable the PRESIDENT: Order, order.

THAKOR AMOD (Gujarat Sardars and Inamdars): Mr. President, I agree with the principle of the amendment proposed by my honourable friend, Sardar Dalal. But I want to propose an amendment to his amendment which is as follows:—

"Add the following after clauses (1) and (2) as (3):—

[Thakor of Amod]

'And every district local board shall assign out of the district local fund to every village within the district a sum equal to one-eighth of the revenue described in clauses (*b*) and (*c*) of section 75 levied from lands within the village and cause it to be spent for the said village.'"

The Honourable the PRESIDENT: It is an incomplete amendment and I cannot allow it.

THAKOR OF AMOD: I will then speak on Sardar Dalal's amendment which is before the House.

As a matter of fact, the real state of things is this that from the past experience that we have had of the district local boards it is an admitted fact, admitted even by local officers as well as by others, that local needs of poorer villages have been absolutely neglected even by the taluka local boards. They send their representatives, but the result is this that the man who represents particular villages or having an interest in three or four villages, does not pay proper attention to local needs of other villages. Poorer villages pay tax for education, while the fact is that they never get schools. Then there are so many local needs which are absolutely neglected, and I think I will bring the facts to the notice of this House on this point. I can even give you names of the villages where from the beginning, from the time the Local Boards Act came into force, only small amounts have been spent. First is Kerwada. Annual cess there is Rs. 721. Cess collected Rs. 41,818. Spent Rs. 6,000 only. Matar, annual cess, Rs. 398. Cess collected Rs. 2,566 and spent nothing. Andrad, annual cess Rs. 379, cess collected Rs. 21,500: spent nothing. Wadya, annual cess, Rs. 477, collected Rs. 27,189; spent nothing. Then I come to Jambusar taluka. Kavli: cess collected was Rs. 36,000; spent only Rs. 816.

The Honourable the PRESIDENT: Is the honourable member going to read out all that long list?

THAKOR OF AMOD: I want to show that the villages have been entirely neglected.

The Honourable the PRESIDENT: But you have given a few names as illustrations. Are you now going to read out the whole list?

THAKOR OF AMOD: I only want to show that these villages are absolutely neglected.

The Honourable the PRESIDENT: Are not the names which you have already read out sufficient for your argument?

THAKOR OF AMOD: Only one more, Sir, Mongleswar: Rs. 62,000 collected and spent only Rs. 431.

Now, I can prove from these figures that in the years past, particularly in the villages which are poor, they have been absolutely neglected. That is one thing, and the whole object of my honourable friend's amendment is the same, that we can safely make some rules under this clause or some other clause of the Act to provide that the money should be spent in the villages when it is collected from them. Now, the real position is that it is not so done. Whatever tax is collected in the interests of the villages it should be spent in the interests of the villages. That is not the prevailing state of things and the prevailing state of things ought to be remedied, either by framing certain rules or otherwise. With these words I support the amendment brought forward by my honourable friend Sardar Dalal.

Mr. G. B. TRIVEDI (Thana District): Sir, I agree that the instances quoted by the honourable member, the Thakor Saheb of Amod, are very telling

[Mr G. B. Trivedi]

and they prove beyond doubt that our rural areas have been neglected while they are taxed, and that the greater portion of that taxation has been spent in developing urban or other areas. I agree so far. But then I appeal to him and to the honourable mover to consider whether they will not let the new constitution work a little and see how it works. We do admit that the past history of this matter is very disappointing, but then, for that very reason the local boards are now constituted on a different basis. Now the agriculturists will have a predominant voice in sending their representatives on taluka local boards and district local boards. It is in their interest now to exercise their votes in such a way that their representatives will do everything that can possibly be done in their areas, and if they feel, after some experiment that it has not succeeded, and if there is something inherent in the constitution which will not go to develop the rural areas, then let them come again to the Council and say that the new constitution also has failed to satisfy their wants and therefore they want some amendment in it. That would be the proper time. But I appeal that at this stage when a new constitution is being introduced, it is but fair that their hands should not be handicapped or fettered. I agree that a case has been made out that rural areas are neglected so far. I hope that our efforts now will be successful in remedying the grievance. All those villages should fight out their cause and see that they will be developed in sanitation and education, and that their other wants also shall be attended to. But there is much force in what my honourable friend from Nagar has said that we cannot particularise the revenues ; we cannot say that this village shall pay this much portion for its development and that village shall pay so much. It may be that a rich village may get a bigger share and another village may get a less share. And then, Sir, while in the provincial revenues we are not working on those lines and we are not asking that because we have paid so much revenue, a portion of it shall be reserved for the development of Gujarat or other provinces ; similarly we cannot ask for such a thing in the case of these villages. I do feel, Sir, that the villages have been neglected, but at the same time I feel that the principle that is laid down is not a principle which is recognised in the provincial administration. How, then, can we recognise it in the case of the local boards ? There will be time, after working the new constitution for two or three years, to raise this question again. If you find that it has failed, and then point out that even under the new constitution the rural areas have suffered and there is no other remedy but to ask for apportionment of this revenue to each village, then the Council will suppport your claim. So I appeal to the honourable mover not to press the amendment and to let the new constitution work for some time.

Dewan Bahadur K. R. GODBOLE (Poona District) : Sir, as regards the amendment that is before the House, I am not able to give it my support. I think that there should be no provision in the Local Boards Bill compelling the district local board to assign to every village panchayat a portion of the revenue collected from the village. But the district local board ought to be left free to give such amount as it may think fit to the village panchayat to enable it to administer the area entrusted to it. In the Poona district local board, which I am administering at present, we have made a rule in the case of the village panchayats that have been established in the district, whereby we assign them out of the local fund, an amount which will represent one-sixth of the local cess collected in the village. At present we collect 12 pies in the rupee, out of which 4 pies go to education, leaving 8 pies in the hands of the

[Dewan Bahadur K. R. Godbole]

district local board for expenditure on general purposes. What we do in the Poona district is that we give to every village panchayat 2 pies in the rupee or one-sixth of the local cess we collect from the village. In the case of these village panchayats the principal source of revenue which they have at their disposal is the local taxation which they are authorised to raise. That is the principal source of their revenue which is to be supplemented by grants given by Government and by the district local board. In the Poona district, as I said, we have fixed this grant from the district local board at 2 pies out of the 12 pies that are collected from the village. But this is a matter which the board has settled for itself under the provisions of section 25 of the Bombay Village Panchayats Act. One of the sources specified in this Act for the village fund is sums contributed to the village fund by the district local board, and we have assigned to the village panchayats one-sixth of the present local cess of the village in the manner I have placed before the Council. I do not think, however, that such provisions should be made compulsory in the case of every district local board. It should be optional with every district local board to deal with the matter as they like. If this is done, I am quite sure that district local boards will assign reasonable grants to village panchayats on the lines I have indicated. But I must oppose the insertion of this clause in the bill. Besides, the proportion that is put down in the amendment is one-fourth, which is too high, considering that one-third of the cess collections are to be allotted to education. I therefore oppose the amendment which has been moved by my honourable friend the member for Broach district.

Sardar Khan Bahadur A. M. DALAL (Broach District): Mr. President, I think there is no point in the argument advanced against the amendment which I had the honour to move. We find that the Village Panchayats Act has been in existence for the last three years, but so few panchayats have been registered that when we seek the cause as to why it is so, we at once come to the conclusion that these villages have no inducement to ask for a panchayat. The honourable member for Poona district has got considerable experience of the district local boards, and as a wise president of that board, he has caused, by his influence, that board to agree to a contribution of 2 pies out of the 1 anna. It is very creditable to that board and to its president, but I fail to find any other board in the Presidency where they have remedied the grievance of the villages. It will be admitted by all, even by the honourable member for Thana, that there is a real grievance, and that the poor villages have been absolutely neglected. All the villages pay 12 pies in the rupee, and in return they do not get any advantage from that contribution. It is all very well to ask the district local boards to give voluntary contributions. But we know, as a matter of fact, that the district local boards have shouldered so many responsibilities themselves that, in their own interests, they do not want to move in this behalf. Therefore, when we are now legislating for local areas, we should give every encouragement to the rural villages to have panchayats, and make them a living organisation, so that they can start on a career of usefulness and improvement. Therefore, this is the proper time to do so. The honourable member for Ahmednagar district has said that these village panchayats have not got to bear the expenses of schools. It is quite true, but the duties of the village panchayats are more onerous than the duties of the taluka local boards, and as such they should be given by this Legislative Council a certain share of this revenue. I think the main point is that the district local boards, as they are at present constituted, regard their own interests and are unwilling to sacrifice

[Sardar Khan Bahadur A. M. Dalal]

their revenue. But, if we have the interests of these villages at heart, they should not mind this limitation. I therefore confidently appeal to the honourable members of this House that they will kindly accept my amendment.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Mr. President, I am very much amused to hear that although the villages contribute to the local fund, they are not given anything in return, and that I hear from two responsible members, both of whom are intimately connected with the district local boards. If I am right, the honourable member opposite to me is the president of a district local board. I would like to know what he has done for these villages. Has he ever attempted to meet their complaints and tried to give them what they wanted? There is nothing in the Act to prevent him from doing so.

Now, coming to the question that the boards have no money, I must enlighten the House on the point. The local boards get at least Rs. 25 lakhs out of the cess; Government have been making grants in addition to the extent of 1 crore of rupees. I can give the actual figures; I am in possession of them. Again under the bill, we have given the boards power to tax themselves, to raise 1 anna cess to 2 annas, and also to tax themselves in other directions. Further the new bill will throw additional burdens on the provincial revenues, and yet the honourable member says that the boards have no funds. If the Compulsory Education Bill is passed, the total contribution of Government to local bodies will be nearly 3 crores of rupees, which will be one-fourth of the total provincial revenue. There are two honourable members here, both of whom are intimately connected with local boards—one is the president of a district local board and the other of a taluka local board—and yet, I am sorry to say that during their tenure of office they have not remedied the grievances of the villages.

THAKOR OF AMOD (stood up).

The Honourable the PRESIDENT: Order, order. Will the Honourable Minister give way?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Yes, Sir.

THAKOR OF AMOD: The presidents of the local boards are trying their best, but if there is a defect in the Act, what can they do?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The Village Panchayats Act says that the village fund shall consist of sums contributed to the village fund by a district local board, *i.e.*, the district local board is given the power in the same Act to contribute towards the funds of the panchayats.

(Rao Saheb D. P. Desai made an observation which was inaudible.)

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: The sum and substance of all the arguments put forward by the honourable members is that honourable members who are connected with the local boards are afraid of taxing themselves, even when they are given the power to do so.

An Honourable MEMBER: We are willing to be taxed.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Before trying to tax themselves, they cannot complain. The bill which gives you the

[Khan Bahadur Shaikh Ghulam Hussain]

power to tax yourself has not yet been passed into law. Earmarking a particular share of revenue is a vicious principle. If you once accept this principle, there will be no end to it. Then again, what is our present system ? Local bodies get grants from Government and this is an equitable system, because Government look to the needs of the various villages, and accordingly fix the grants. If you earmark any portion, the result will be that the poor villages will be starved. I consider the introduction of this principle in local bodies very bad. Besides the franchise has been widened and villages can elect their representatives direct to the district local board. As their representatives will be there, they will remedy their grievances. I hope this Council will reject this amendment.

Amendment negatived.

Rao Saheb D. P. DESAI (Kaira District) : Sir, I move :

"At the end of sub-clause (2), of clause 79, add the following words :—' and the remaining amount shall be spent on such objects mentioned in section 50 as the district local board recommends.' "

This clause, *i.e.*, clause 79, provides for the transfer of the amount collected or realised as local fund cess within the municipal limit to the municipality. Out of that fund a certain portion goes to the education of that municipal area and some portion still remains. Now, it so happens that the municipality spends that remaining portion on objects they themselves like, and do not spend on those objects which will be useful to the agricultural cess-payers. As an instance I may say, Sir, I had occasion to write to a municipality to spend a certain portion within the municipal area but outside the city limits for the benefit of the agriculturists. But the municipality failed to carry this out and we could not enforce it because we have no power under the Act to compel the municipality to spend the remaining portion for the benefit of the agriculturists. It is for that reason I have brought in this amendment. It will enable the boards to recommend the objects for which they would like to spend the remaining portion.

Amendment negatived.

Clause ordered to stand part of the bill.

Clause 80 (*Expenditure for educational purposes to be made by district local boards only*) ordered to stand part of the bill.

Clause 93 (*Levy of one anna cess on every rupee of land revenue*)—

(1) The Government shall levy, on the conditions and in the manner hereinafter described, a cess of one anna or, on an application of the district local board to which the cess is payable made in pursuance of a resolution of the board passed at a special meeting called for the purpose, an increased cess not exceeding two annas, on every rupee of—

(*a*) every sum payable to the Government as ordinary land revenue except sums payable on account of any of the charges mentioned in Schedule A, and except sums payable on account of any charge which may be notified by the Government in this behalf and

(*b*) every sum which would have been assessable on any land as land-revenue had there been no alienation of land-revenue :

Provided that any increased cess leviable as aforesaid shall be a multiple of 3 pies.

(2) The Government may, on the application of the local board to which the cess is payable, suspend the collection of the cess or any portion thereof in any year in any area in which the Government has declared that famine exists.

Sardar Khan Bahadur A. M. DALAL : There is my amendment, Sir.

The Honourable the PRESIDENT : You want to increase the cess from one anna to two annas.

Sardar Khan Bahadur A. M. DALAL : Yes, Sir.

The Honourable the PRESIDENT : Was that question raised at the first reading ?

Rao Bahadur G. K. CHITALE : It was not raised.

The Honourable Dr. R. P. PARANJPYE : He raised the point and I answered to his arguments also.

The Honourable the PRESIDENT : Did I say that it was a matter of detail with the general assent of the House ? If this was specially reserved, I might allow ; otherwise it is beyond the scope of the bill. What I ruled at the first reading was that if a point was raised and I stated with the consent of the House that it might be brought in later on, that point might be brought at the second reading. This motion is beyond the scope of the bill, because it is adding to the taxation, and this could be allowed only by the general consent of the House taken by the Chair at the first reading. Mere reference to it will not do. I rule it out of order.

Mr. Bhate's amendment also comes under the Advocate General's opinion.

Clause ordered to stand part of the bill.

Clause 94 (*Rules for assessment*) ordered to stand part of the bill.

Clause 95 (*Government may direct alienated village to be surveyed and assessed for purpose of fixing the cess*).

(1) Notwithstanding anything contained in section 94 or in section 216 of the Bombay Land Revenue Code, 1879, if an alienated village has not been surveyed and assessed in the manner laid down in the said Code and the rules made thereunder, the Government may, if it thinks fit, direct that it shall be so surveyed and assessed at the expense of the Government for the purpose only of fixing the cess leviable under this Act ; and when the village has been so surveyed and assessed the cess shall be fixed on the total annual assessment of the village.

(2) A survey settlement shall not, by reason of such survey and assessment, be deemed to have been introduced into such village, and the lands of such village shall not by reason of the same be deemed to have been assessed, for any other purpose than for the purpose aforesaid.

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars) : Sir, I oppose this clause. This clause provides that a regular survey shall be made by Government of alienated villages which have not been surveyed. In clause 94 there is a provision that the cess may be fixed as agreed upon by the Collector and such holder or proprietor, or failing agreement, by a rough survey and assessment to be made by the Government. I submit that this clause 95 is redundant and unnecessary. This survey will be a harassment to the inamdars. The Local Boards Act should not interfere with the relations between holders of alienated villages and Government. The survey of a village is a question to be dealt with by the Land Revenue Code, and should find no place in this bill. The Land Revenue Code provides the mode in which alone the survey should or could be introduced. There are certain definite relations and understanding between Government and inamdars ruled by that Code. For the purposes of local board cess revenue will be as good, and no regular survey is necessary. Besides the survey is to be made at Government's expense. A survey of an average village would cost a thousand rupees in these days, and there is no reason why Government should bear the expenditure. I hope Government will find their way to withdraw this clause as neither the Government nor the inamdar, nor the board stand to gain anything.

Rao Bahadur S. D. GARUD (West Khandesh District) : Mr. President, I join with the honourable member representing Deccan Sardars and Inamdars

[Rao Bahadur S. D. Garud]

in opposing this clause. If the Land Revenue Code cannot compel an inamdar of an alienated village to introduce regular survey, the Local Boards Act should not, I submit, take up that duty. Under sub-clause (2) this regular survey is not to serve any other purpose, and neither the Government nor the inamdar can take advantage of it. I do not know then why the Government should put itself to this unnecessary expense. If the local board has to impose a cess on the village, it can do so on the basis of the old or kammal rate, or a rough survey can be made under clause 94. In practice the old kammal rates are higher than the rates which will be arrived at by a regular survey. From that point of view also Government money should not be spent on the regular survey. I do not see in whose interest this regular survey is to be made: it is not in the interest of Government; it is not in the interest of the district local board; it may not be in the interest of the inamdar if it reduces his income, and it will merely harass the inamdar. Now practically there are very few cases where survey has not been made in alienated villages. Government have introduced survey in almost all alienated villages. So in the other cases where no survey is made the question of the cess can certainly be solved almost against the interests of the inamdar by a levy on basis of the kammal rates as it is at present done. So, this clause is not necessary at all, and therefore it should be deleted.

Rao Bahadur R. M. NILKANTH (Ahmedabad District): Sir, I also rise to oppose this clause. The bill provides that when a village does not fall under sub-clauses (*a*) and (*b*) of clause 94, the cess is to be levied on the old or kammal rate. This is also the present practice, as in the case of the Chief of Patdi whose petition has been laid on the table of this Council. At present Government levy local fund cess on the old or kammal rate of the Chief's villages. Under clause 95 this existing arrangement could be set aside, as these villages have not been surveyed, and the local fund cess could be levied on a new assessment. This clause gives power to Government to do so. I feel that that will increase the liability of holders of such villages, as the new assessment would be higher than the kammal rate and I think it is not fair to do so.

Rao Bahadur R. R. KALE (Satara District): Sir, I must join the opposition on the ground that it seems to me that this clause is inconsistent with clause 94 which we have already passed. Clause 94 has provided for all cases—for surveyed villages, for summary settlements, for the old or kammal rates—and if the kammal rate is objected to by the holder or proprietor, it provides:

"The cess may be fixed as agreed upon by the Collector and such holder or proprietor, or, failing agreement, by a rough survey and assessment to be made by the Government, the expense of such rough survey being borne half by the local board and half by the holder or proprietor of such village."

When there is no other means of assessing, a rough survey has been provided for. So, every possible contingency has been provided for, and it seems to me inconsistent to proceed to say:

"Notwithstanding anything contained in section 94..... if an alienated village has not been surveyed and assessed in the manner laid down in the said Code (Land Revenue Code) and the rules made thereunder, the Government may, if it thinks fit, direct that it shall be so surveyed."

I submit, Sir, that really speaking this clause is not only unnecessary, but is inconsistent and ought not to find a place in the bill.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Sir, I withdraw the clause.

The Honourable the PRESIDENT: If you withdraw the clause, then one complication arises: clause 96 becomes clause 95, 97 becomes 96 and so on.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: They can be re-numbered with the consent of the Council.

Question put:

**That clause 95 be left out,**

and agreed to

Clause 96 (*Levy of cess on water rate*) ordered to be numbered as clause 95 and to stand part of the bill as clause 95.

Clause 97(1) (*Manner of levying cesses*) ordered to be numbered as clause 96, and to stand part of the bill.

Sub-clause (2) of clause 97 ordered to be numbered clause 97.

Figure "96" in line 2 of sub-clause (2) of clause 97 ordered to be altered into the figure "95".

Clause 97, as amended, ordered to stand part of the bill.

Clause 98 (*Assistance to superior holders*) ordered to stand part of the bill.

Clause 99 (*Taxes which may be imposed by district local board*) ordered to stand part of the bill.

Clause 100 (*Procedure of board preliminary to imposing tax*) ordered to stand part of the bill.

Clause 101 (*Power to sanction, modify and impose conditions*) ordered to stand part of the bill.

Clause 102 (*Publication of sanctioned rules with notice*) ordered to stand part of the bill.

Clause 103 (*Power of Government to suspend levy of objectionable taxes*):—

**If it shall at any time appear to the Government, on complaint made or otherwise, that any tax leviable by a district local board is unfair in its incidence, or that the levy thereof, or of any part thereof, is obnoxious to the interest of the general public, the Government may require the said district local board, within such period as it shall fix in this behalf, to take measures for removing any objection which appears to it to exist to the said tax, and if, within the priod so fixed, such requirements shall not be carried into effect to the satisfaction of the Government, the Government may, by notification in the *Bombay Government Gazette*, suspend the levy of such tax or of such part thereof, until such time as the objection thereto shall be removed.**

Sardar V. N. MUTALIK (Deccan Sardars and Inamdars): Sir, I beg to move the following amendment:—

**"In clause 103, line 3, after the words 'the general public,' add 'or violates any promises made or undertakings incurred by Government'."**

We have made provision for anything which is obnoxious to the interests of the general public, but I may point out to this House that there are certain promises made by Government and undertakings incurred by Government which perhaps may....(The honourble member was inaudible at this point). Under such circumstances, I think it is fair to the good name of this Government and I am quite sure that this Government will never violate promises solemnly made or any undertakings incurred by them. But if this Government does not intend to violate any promises, I think there should be no objection to accepting my amendment. It sometimes happens that by oversight or on account of the ignorance of any officials concerned, such promises are overlooked and in this connection I may give an instance of the recommendations that were recently made by the Primary Education Committee with regard to levying special tax on jahagirs and inams. There is a storng minute of dissent by the honourable the Chief Secretary and the honourable the Director of Public Instruction that Government do not want to violate any promises already made, which clearly shows the intention of Government, but in order

[Sardar V. N. Mutalik]

to avoid an opportunity for any such occasion in future I think my amendment should be accepted and should stand as part of the bill.

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 1 (*Short title and extent*) ordered to stand part of the bill.

Preamble ordered to stand part of the bill.

The Honourable the PRESIDENT: The bill is now read a second time.

## A BILL TO PROVIDE FOR COMPULSORY ELEMENTARY EDUCATION AND TO MAKE BETTER PROVISION FOR THE MANAGEMENT AND CONTROL OF PRIMARY EDUCATION IN THE BOMBAY PRESIDENCY (BILL No. XVII OF 1922.)

(As amended by the Select Committee.)

The Honourable Dr. R. P. PARANJPYE: Sir, I beg to submit here the report of the select committee on this bill.

I beg to propose that this bill be now read a second time. The report of the select committee has not made any substantial changes in the bill as proposed, although there are a good many drafting amendments. I might only mention one point in the beginning that the select committee has made in clause 13 a considerable amendment as regards the proportion of the grant to be made by Government for the costs of a scheme. That clause is contrary to what was proposed by Government in the original draft, and I submit, Sir, that the select committee is not authorised to make any further additional charge upon the revenue without the consent of the Government. I am authorised to say by His Excellency that Government does not accede to a further charge upon the revenues as contemplated by the select committee, and I therefore propose that the bill be read a second time as drafted by the select committee, except as regards clause 13 in which case the clause as originally drafted should stand. I do not wish to take the time of the House by making any lengthy remarks upon the draft as I am putting before it. But the changes made there have elucidated many points more clearly and they also in some instances go far towards the improvement of the bill. We shall consider the various clauses in detail, and therefore I need not go over each clause. There are amendments proposed by honourable members on several points, and perhaps I myself might have to move a few amendments in order to improve the bill as I think proper in my opinion, when the clauses will come for detailed discussion. I hope that the Council will feel that in having this bill before them they are really making a great advance and the bill before us will advance the cause of popular education to a very great extent, especially among the classes which need it. With these words I propose the second reading of this bill.

Second reading.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, I wish to address the House on one point which appears to me rather an important one. The select committee meetings were presided over by a Member of Government, and I can understand the chairman of the select committee shutting out a proposal if there is anything illegal in it; but after allowing the select committee to take a certain position, or alluring the select committee into a position which he himself accepts as a spokesman of Government there, I

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do not think it is open for the Honourable Minister to go back on a promise he had made and accepted. I do understand that Government possess that power, but that is to be used at the first stage. They cannot say that they presume that the Minister or a Member of Government has not full authority to allow this allocation. The only chance given to the Member of Government to object to this was in the select committee and he loses it. I do not think there is anywhere in the Act any power to withdraw from the position accepted on behalf of Government. The only authority that the Honourable Minister now alleges is that, as His Excellency has allowed him to state that it is illegal, he withdraws from the position. I submit that this position which is rather constitutional, is also very important. Where there is a certain mutual responsibility, it has to be exercised in proper time, and necessarily, therefore, the Honourable Minister had an opportunity at the select committee, because I might remind the Chair that the Chairman with respect to certain points was Government before the select committee. The point came before us at the first reading, not that we were taken unawares, because I was a member of the select committee. The Secretary to Government in the Educational Department was there in the select committee and there, after a long discussion, I understand the select committee were allowed to come to a decision that this proposal could be changed and then there was plain sailing, everybody was satisfied that the grant was substantial and that it appeared very well in the present state of things, which is, Sir, that at present Government contribute to the extent of 85·88 per cent. At the time of the first reading, all that was allowed was 66 per cent. Naturally the Secretary wanted the select committee to arrive at a compromise of 75 per cent., and, under those circumstances, the chairman of the select committee consented to the compromise and, after having exercised his discretion once that way, I do not think it is proper for him to come here and say that this is illegal. I put that proposition before this House and especially for the Chair to consider, so that I might know exactly what our position is. For instance, the same thing might happen in other select committees where there are responsible Members of Government. They have to make themselves quite sure whether they possess that power, but once they have used it, they cannot go back on it.

The Honourable the PRESIDENT: The point is quite clear and there is no doubt about it. The law is also quite clear on the point. Section 80C says:

> "It shall not be lawful for any member of any local legislative council to introduce, without the previous sanction of the governor, any measure affecting the public revenues of a province, or imposing any charge on those revenues."

It is not a question of the select committee, nor is it a question of the chairman of the select committee. This Council has nothing to do with that. But the law says no motion shall be made involving a measure imposing any charge on the public revenues without the previous sanction of the Governor. Here there was no previous sanction. Therefore, if the chairman of the select committee allowed the select committee to do that, then it was absolutely void. For the words "it shall not be lawful" mean "absolutely void for all purposes". Therefore, now that it has been brought to my notice that this amendment of two-thirds into three-fourths had not the previous sanction of the Governor, and as it imposes an increase of charge and therefore a fresh charge upon the public revenues, I cannot put the amendment to the Council. It must be ruled out of order for want of the previous sanction.

Mr. C. M. GANDHI (Surat City): Your ruling, Sir, raises a very important question.....

The Honourable the PRESIDENT: I have not the slightest doubt upon that point. What I mean is if two-thirds is changed into three-fourths, it means an increase and the increased amount is a charge on the public revenues and previous sanction is necessary.

Rao Bahadur G. K. CHITALE (Ahmednagar District): It is a charge, Sir, but it is a less charge and not an increased charge.....

The Honourable Dr. R. P. PARANJPYE: There is a clause there that:

"Nothing in this section shall affect the right of any local authority to any annual grant which at the time this Act comes into operation is being paid to it by the Government for purposes of primary education."

The additional charge which is on account of compulsory education is what is under consideration, and in the case of the additional charge Government accepted half and two-thirds. The select committee proposed two-thirds and three-fourths.

Rao Bahadur G. K. CHITALE: I maintain, Sir, that under the Act as it is, the local boards are entitled to get more than what is provided for in the bill. So we are not entrenching upon the public revenues; it is not an increased charge.

Rao Saheb D. P. DESAI (Kaira District): At the rate at which we are going, the Honourable Minister would have to give us 88 per cent. of the charges even if there had been no Compulsory Education Bill.

The Honourable the PRESIDENT: Where is that 88 per cent. ?

Mr. F. B. P. LORY: Clause 80 of the Local Boards Bill deals, Sir, with the question of expenditure for educational purposes, but in that clause no mention is made whatever of any specific proportion. In sub-clause (1) of clause 13 of the Primary Education Bill, the proportion of two-thirds and half is mentioned.....

The Honourable the PRESIDENT: My question is a very simple one. Where is this 88 per cent. to which the honourable member from Kaira refers ?

Honourable MEMBERS: Nowhere, Sir.

Rao Bahadur R. R. KALE (Satara District): I would invite your attention, Sir, to sub-clause (2) of clause 13 of this bill. It says:

"Nothing in this section shall affect the right of any local authority to any annual grant which at the time this Act comes into operation is being paid to it by the Government for purposes of primary education."

The Honourable the PRESIDENT: Yes. I understand that at present a certain amount is being paid and the bill, in addition to that, proposes two-thirds of the expenditure to be paid. Is it not ?

The Honourable Dr. R. P. PARANJPYE: Two-thirds of the additional expenditure.

The Honourable the PRESIDENT: Yes. So, that two-thirds is over and above the amount which is being paid at present.

The Honourable Dr. R. P. PARANJPYE: Yes.

(Honourable Members: Yes, yes: No, no.)

The Honourable the PRESIDENT: The honourable gentlemen on the other side seem to be in a confusion themselves. Some honourable members say "Yes"; some honourable members say "No".

Rao Bahadur R. R. KALE : Supposing there is no compulsory education, the contribution by the provincial Government to local boards is about 88 per cent., or say 90 per cent. of the total expenditure on primary education. If Rs. 100 is the local board's expenditure on primary education, Rs. 10 is spent by the local board and Rs. 90 is paid by Government. That is the present rate, and the question is, therefore, whether three-fourths—which is 75 per cent.—is an advance on the present contribution or a downward move.

The Honourable the PRESIDENT : If that is the position, there may be something to say, and when we come to that particular clause, we shall discuss it. In the meantime honourable members on both sides will come with clarified ideas.

Mr. C. M. GANDHI : We ought to know Government's position, Sir, before we proceed to vote on the second reading.

The Honourable the PRESIDENT : They say that they are not going to give you three-fourths for want of the Governor's previous sanction; that is the position. Honourable members will realise it. The point which has been raised may be discussed when the clause comes up for discussion. It may be discussed when we come to the detailed clauses, but in the meantime for the purpose of this motion for second reading the House is informed by the Honourable Minister that His Excellency is not going to give his consent to three-fourths.

Rao Bahadur R. R. KALE : We want to make our position clear, Sir, whether we want to oppose the second reading or support it.

The Honourable the PRESIDENT : At present it seems to me that that particular clause is out of order, but I give honourable members an opportunity of discussing the point in the course of their speeches instead of wasting time in this discursive manner.

Mr. C. M. GANDHI : Your ruling, Sir, raises.....

The Honourable the PRESIDENT : I have not given my final ruling, but I shall give my final ruling when we come to the clause and the point of order actually arises.

Mr. C. M. GANDHI : Accepting your ruling, Sir, so far as it goes, it raises a very important question. If my memory serves me aright, there was a discussion over this clause for a pretty long time of the day, and then the Honourable Minister in charge took time to consider it and it was on the next-day that he accepted the clause as it now stands, and I think I am not wrong when I say that the initiative even came from Government.....

The Honourable Dr. R. P. PARANJPYE : No, no.

Mr. C. M. GANDHI : I speak subject to correction. I take the Honourable Minister's word that the initiative did not come from him, but there is no doubt about it that he accepted it. Along with this important clause, there was another addition made in the bill as it now stands, namely, clause 8, sub-clause (1). It reads :

" A local authority shall take over and employ such primary schoolteachers employed under the Educational Department of the Government as the Government may direct, on the same terms and conditions on which such persons were employed under the said department. "

The members of the select committee were rather unwilling to take that responsibility, but.....:..

The Honourable the PRESIDENT: May I make one suggestion, Mr. Gandhi? What happened in the select committee is not a matter which is now relevant, because the Council is now seized of the whole case and if you will confine your speech to the merits of the second reading and especially make it clear to me that that particular clause does not increase the charge, but is within the charge already sanctioned, it will be of great help to me and will economise time.

Mr. C. M. GANDHI: So, I submit that these two clauses 8 (1) and 13 (1) ought to stand or fall together. The part of the obligation which is to be accepted by the Council is to be set off against the other responsibilities that I wish Government to accept. No doubt, I agree that in the bill as it was originally drafted, Government undertook to pay two-thirds. But, in view of the fact that Government was paying something like 88 per cent., if Government now undertakes to pay 75 per cent., it does not really increase the cost which they are paying now, and which might have continued probably for some years to come. Therefore, I submit that, if Government is not in a position to accept the obligation which is imposed by that clause, I think it will be impossible for local boards to shoulder the other part of the responsibility thrown on them by the bill, and however anxious we may be to push on compulsory primary education, it would be our painful duty to throw out the bill altogether, for it is not possible to shoulder the very great responsibility which is tried to be thrown on the shoulders of the local boards by this bill, unless and until Government bears its part of the responsibility. No doubt, this clause 13 refers to additional cost to be incurred by Government in future. So far as the existing obligations and rights are concerned, they are kept intact, but, as I said before, having regard to the high percentage which Government used to bear before, and the much smaller percentage that Government will have to pay under the bill, at least for some time to come, it will not affect the revenue at all. I therefore submit that, unless and until Government is found willing to stick to this obligation which they have accepted, it will be our painful duty to throw out the bill at the second reading.

Mr. G. B. TRIVEDI (Thana District): Mr. President, the enthusiasts of compulsory and primary education depended upon two provisions in this bill, firstly finance, and secondly the period within which it will be made compulsory and universal throughout the Presidency. On both these points, the attitude of Government is not satisfactory to this House. On the financial side, the select committee's report is satisfactory, but then here the Government want to go back upon the agreement arrived at in the select committee. I sympathise with the position of the Honourable Minister in charge of this bill. While his sympathies are with this House, from the discussion that we had on the select committee's report just now, and also from the minutes of dissent that have been attached to the select committee's report, it is quite evident that this House will not be satisfied unless Government gives satisfaction on both these points, namely, finance and the period within which it will be made compulsory throughout the Presidency. Now, as I said, I sympathise with the position of the Honourable Minister, and I raise another constitutional point which is this. If the Government, as a whole, is not going to support the position taken by the Honourable Minister in the select committee, then they ought to have chosen another spokesman in taking up an attitude which is against the position that was taken by the Government's representative in the select committee, because I feel that our Ministers ought

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not to be put in this awkward position. I do not say the Honourable Minister should not be asked to pilot this bill, but what I mean to say is that if he had to take a different attitude to that which he took in the select committee, then it would have been.....

The Honourable the PRESIDENT: We have nothing to do with that. Please deal with the merits of the bill as it is.

Mr. G. B. TRIVEDI: Very well; I will leave the Minister to take care of himself. Then I want to ask the Government one question. The other day the Honourable the Finance Member on behalf of Government took pride, and rightly, in saying that this Presidency is going to be the first in the whole of India to have compulsory primary education introduced. If Government want to take that pride, is it not their duty to see that that pride is fulfilled? And if this House, consisting as it does of many honourable members connected with municipalities and local boards, comes forward and tells the Government that it is impossible to work this bill unless more finances are in the hands of the local bodies, is it not the duty of Government to consider that point? We have had 31 municipalities who had asked for two-thirds grants, according to the resolution that was passed in this House. When that resolution was being discussed, Government said that they would look to the case of the municipalities who could not go on with half the grant. When you ask them to shoulder additional responsibility, you should also give them sufficient resources to meet and discharge their responsibilities. The position of the local bodies is worse. At present they are getting 88 per cent., and still they have not been able to meet their expenditure. Their financial position is unsound and they have not been able to push on their educational programme in their areas. Now the Government offers 75 per cent. as their contribution towards the cost. Is it possible to ask a man to be satisfied with 75 per cent. when he has not been able to manage his own house with 88 per cent.? When we asked that local boards should be empowered to find additional sources, Government opposed it tooth and nail. Without giving additional sources of revenue, the Government are asking the local bodies to undertake additional responsibilities in the matter of compulsory education. I put it to Government whether it will be a practical proposition. I have no doubt that the views expressed in the House will assure Government that unless they agree to contribute a greater share of the expenses, it will be impossible. We do not want the Government to give it from provisions made for administrative expenses. We say we are prepared, as we said at the first reading as enthusiasts for the introduction of compulsory education, to levy further taxation. If that is the position, why should Government recede from that position? The position taken by the Government is very disappointing. I am an enthusiast on primary education, but I think it is an unworkable proposition. Therefore, I have most reluctantly to oppose the second reading of the bill.

Mr. S. T. KAMBLI (Dharwar District): Sir, the passage of this bill through all its stages is being watched with the greatest interest and the keenest anxiety by the masses outside whom this bill is intended to benefit. Sir, this bill is conceived in a benevolent spirit by the Government, and the beneficent effects of it cannot be felt by the public, unless the Government assists the local bodies with an equally generous and liberal spirit. I repeat, Sir, that for the successful working of this bill, it is essential that Government should come to the aid of the local bodies in a liberal manner. Otherwise we are afraid

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that this bill will share the fate of the Patel Bill. We know as a matter of fact that so many local bodies in this Presidency, so many municipalities, showed their willingness by passing resolutions to introduce compulsory education within their respective limits ; and we know also what deterred them from carrying their will into practice. It was the financial stringency—it was the financial inability—of the municipalities that prevented them from carrying out the provisions of the Patel Bill.

Now to come to this bill, the attitude of the Government in not giving effect to the deliberate conclusion or recommendation of the select committee with regard to the proportion of grants to be made by Government to the various local bodies in the Presidency does not seem to augur well for the future working of this Act. Up to this time, so far as the local bodies are concerned, by section 48 of the present Local Boards Act of 1884, the local bodies are to set apart one-third of their cess for primary education, and the remaining expenditure, whatever it comes to, is being borne by Government. Looking to the administration reports of the local boards issued from year to year one will easily see that the proportion of the expenditure on primary education borne by Government comes to about 80 per cent. of the whole expenditure. Speaking for myself, Sir, I do not see why the Government should reduce this share of their burden when the local boards are going to introduce compulsion within their areas. To give power to local boards to introduce compulsion and at the same time to deny them the resources to carry out compulsion in their areas seems to me a little surprising. Even with the increased powers of taxation given to the local boards by the present bill, I am afraid that this bill will only be a bill on paper—it will be a dead letter—if the Government were to reduce their grants and make it two-thirds instead of three-fourths.

Now, coming to the municipalties, the present grants to the municipalities come to about 50 per cent. of their total expenditure on primary education. We know as a matter of fact that municipalities have been repeatedly making requests to Government for increased grants to enable them to carry out the work of spreading primary education within their limits on a voluntary basis satisfactorily. On account of the increased rate of salaries which have been sanctioned by Government to primary school teachers, on account of the increase in wages and the all round rise in prices, municipalities have been finding themselves hard hit. Still the municipalities are not given under the bill more than one-half of their expenditure. It was only last year that a resolution was passed by this Council that the Government should pay more than one-half of the expenditure incurred on primary education in the case of deserving municipalities. That resolution discloses the financial inability of the municipalities to meet even half of the expenditure on primary education even on a voluntary basis. What will be the result if they are asked to enforce compulsion within their areas ? If they are unable to bear half of the present expenditure on a voluntary basis, I fail to see, Sir, how within the quickest possible time compulsion can be expected to be introduced within municipal areas in this Presidency. If we are serious and if we think that the Compulsory Education Act should not be a dead letter but must be worked with success, I submit that the conclusion arrived at in the select committee with regard to the proportion of expenditure to be borne by the local boards and by the municipalities should be accepted by the Government. The Government have already accepted the principle of making expenditure on primary education a charge on the provincial revenues. It is not the principle that

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is in question now, but it is the question of settling what proportion of the expenditure shall be met by Government. When the Government has shown great sympathy and solicitude for the diffusion of elementary education by introducing this bill and by trying to carry it through all its stages in the quickest time possible, I fail to see why Government should shirk the responsibility of bearing their share of the expenditure as prescribed or recommended by the select committee. With these words I conclude my speech.

Rao Saheb D. P. DESAI (Kaira District): Sir, the Honourable Minister has stated that he is not going to abide by the decision arrived at by the select committee, and by that statement alone he has overturned the finest apple cart that under the circumstances the select committee could prepare for this Council, and it appears to me he has played false to this Council. When he wanted money for this bill, the Council without stinting it promised him the amount, and if he still wants more money the council is still prepared to loyally abide by his wishes and give him more. There is no reason therefore, Sir, for the Honourable Minister to go back on his own words. A responsible Minister of this Council should not go over our heads. He must stick to what he has approved or done in the select committee. That is how the Council views this bill.

As my honourable friend to my right said, clauses 8 and 13 go together. They stand or fall together as these clauses relate to the financial position of the board. Under clause 8 local boards have to employ all the present teachers at salaries settled by Government. Now expenditure on primary education is in a very great measure expenditure on primary school teachers. Now, the primary school teachers have got their time-scale of pay under the present arrangement of Government and every year we will have to give increased salaries to them. Now, if we accept the position of the Honourable Minister, what will be the result ? In future the district local boards will be put to greater and greater expenditure every year, and for that Government will be contributing only two-thirds while they are at present contributing 88 per cent. Under the clause as it is proposed to be worded or amended, the Minister is free to give only 66 per cent. for any future additional expenditure that a local board incurs.

The Honourable Dr. R. P. PARANJPYE: That is two-thirds of the additional expenditure on the new scheme.

Rao Saheb D. P. DESAI: Yes; two-thirds of the additional expenditure on the new scheme. But the teachers will have to be given increased salaries. The moment this bill becomes law the district local boards, until a scheme of compulsion is introduced, will be responsible for carrying out the provisions of this bill. The bill, therefore, is retrograde and reactionary. I stated the same thing when I spoke at the first reading. The present increasing burdens will have to be taken over without adequate normal expansion in education. I said then that a responsible Minister of this Council was going back on what a reserved Member of Education did some years ago. The Honourable Sir Ibrahim Rahimtoola, while he was Education Member, had outlined a scheme for universal primary education and that scheme was being followed and we were making sufficient progress in the districts. Every year new schools were opened and the expenditure on education was going on increasing and increasing every year, and the Government was paying at the rate of 88 per cent. of the total expenditure incurred on primary education. If this compulsory primary

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education bill had not come, then they would have gone on as promised by the Honourable Sir Ibrahim.

The Honourable Sir IBRAHIM RAHIMTOOLA : That was on behalf of Government and not on my own behalf.

Rao Saheb D. P. DESAI : We were thankful for those words of the Honourable Sir Ibrahim as a responsible Member of Government that he uttered on behalf of Government. They have committed Government to a certain line of action and expenditure. This bill by a responsible Minister of this Government puts us some years back. And all that for what ? For nothing. I just told him that this Council would be prepared to give him any amount that he might find necessary, that this Council had never expressed anywhere or at any time that this Council would not come forward to give him money ; on the contrary regardless of public criticism and opinion against imposition of a tax on an infant industry and regardless of the opinion of some of the members here, this Council passed a bill, namely, the Entertainments Bill, although many of the honourable members here and the public of Bombay were against its passing. But this Council agreed to undergo that ignominy merely for the sake of compulsory primary education and passed that bill. Is the Honourable Minister going to pocket all that money if he is not carrying out the provisions of this bill as amended by the select committee? An explanation from Government as a whole is due to this Council.

Again, Sir, the Honourable the Finance Member says that Government is going in the near future to bring in a bill for taxing the totalizator and that would be of great help to the public funds. Where is all this extra money going to be taken away ? Is it to be spent on some extravagant items of Government ? If for education, then why all this plea for retention of the original clause of two-thirds grant of the total expenditure of the boards ? The boards themselves will be quite unable at any time, even after ten or fifteen years, to work this Act. My district, which is considered to be the richest district and consequently has to pay the highest land tax and proportionately high cess per acre in the Presidency, will not be able to work this Act as I have been able to ascertain from the figures available, and so I humbly believe this Act will remain unworkable. Even if we exact the scheduled taxes under the boot heel—taxes allowed under the Local Boards Bill—and extort from the poor cultivators by taxing them to the highest pitch, still this Act will remain unworkable if the clause as amended by the select committee is not accepted. That is my view. Show me any district in this Presidency which can introduce compulsory primary education—for that matter any extension of education in its area—on a two-thirds basis. The Honourable Minister for Local Self-Government was, of course, advising us and asking us to carry out sanitary objects in the villages by levying extra taxes. I wonder how both these objects, sanitation and education, are to be served by levying these taxes especially as the Government themselves are backing out of their undertakings. If Government were committed to 88 per cent., and we had anticipated or expected, and expected confidently, that Government would contribute and go on contributing 88 per cent. towards educational expenditure of local boards, our anticipations and expectations were not improper or unreasonable but for the sake of compromise this Council is prepared to accept 75 per cent. I therefore think the Honourable Minister should on no account go behind the

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three-fourths clause as amended by the select committee. That is my view and I wish that this Council should enter an emphatic protest against any change in the clause as amended by the select committee.

Mr. G. C. BHATE (Kolaba District): Sir, I fear there is some misapprehension as regards the amended clause 13 and the clause which was there in the beginning. The additions that have been made in these clauses are (1) the word additional has been prefixed to the word expenditure, (2) clause 2 has been newly added, (3) non-recurring expenditure has been included. Clause 13 was not explicit as to whether the two-thirds, that was mentioned in the original clause, was of the whole expenditure old or new and whether of the recurring or non-recurring expenditure. It was only by the speech of the Honourable Minister that that point was made quite clear. In the same speech it was specifically said by the Honourable Minister that two-thirds of the additional expenditure would be paid by the Government. That is, the original grant should be there and as regards additional expenditure two-thirds will be paid by Government. But as the clause was not explicit on these points, members wanted to have the assurance in black and white. That was the position taken by all the members then. Now as regards this position, the clause is quite clear, because the words additional expenditure not only of recurring, but non-recurring expenditure are put in this amending clause. Not only that, but the point is made further clear by the addition of clause 2, which says that nothing in this section shall affect the right of any local authority to any annual grant which at the time when this Act comes into operation is being paid to it by Government. Now, let us take an illustration to see what the amendments are. Let us say that Rs. 100 is the present expenditure on a school. Now, if education is made compulsory, additional expenditure will be Rs. 100 more. Then, what will be the position? At present, of course, the share to be contributed by Government is 88 per cent. and the rest is paid by the local board. What the original clause said was that for the additional Rs. 100 Government will pay Rs. 66. Instead of that sum of Rs. 66 the amended clause says Government shall pay Rs. 75. The original grant of Rs. 88 would be there. And over and above that, by the addition of the sub-clause Government would be liable to pay Rs. 75 instead of Rs. 66. That means only a difference of Rs. 9. Instead of Rs. 66, by the amended clause Government will have to pay Rs. 75 *plus* Rs. 88. Now the difference is only of Rs. 9 per Rs. 200. Is the Council going to wreck the whole bill, for the sake of a difference of Rs. 9 per Rs. 200 of total expenditure? Suppose the expenditure is Rs. 200 and there is no such explicit wording in the clause itself then two-thirds of the educational expenditure would mean only Rs. 133⅓. Such an interpretation was plausible. But that was not what was intended by Government and there that point was made clear by the Honourable Minister in his speech. Further, the point has been further made quite clear by the amended provision by the select committee. The question resolves itself into this. Taking the highest figure 90 as the present grant and supposing the present and future expenditure of a school to be Rs. 200, the highest figure that we can get according to the original provisions would be Rs. 156, that is, Rs. 90 *plus* Rs. 66. By the clause as amended by the select committee we will get Rs. 90 *plus* Rs. 75, that is Rs. 165: so that instead of Rs. 156 we get Rs. 165. Now, what the Honourable Minister has said is that for this increase of Rs. 9 the law comes in our way, that the law cannot allow this excess of Rs. 9 as it is done by the select committee.

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So it is for the lawyers, of course, to say whether that position taken by the Honourable Minister is correct or not. Supposing that it is not correct, the question is whether we have to wreck the bill for the small sum of Rs. 9 per cent. That is the only question which the House has to consider carefully and I hope the Council will take into consideration this position. That was the only important point raised by the honourable members who preceded me and I think that, taking into consideration all the circumstances under which this bill has passed and all the stages upto now, it is not worth while to wreck the whole bill, because we do not get this 9 per cent. increase.

Mr. F. B. P. LORY : I must confess, Sir, that I was considerably surprised to hear the honourable member from Ahmednagar, followed as he was by the honourable member from Surat, say that in the select committee the Honourable Minister had pledged himself on behalf of Government to agree to a contribution of three-quarters. Sir, I assert, I assert with all the force that I can command, that the Honourable Minister never made any such pledge. I have a clear and accurate recollection of everything which occurred in the select committee, and I remember, Sir, that this point was, as the honourable member from Surat has stated, long and keenly debated.....

Mr. C. M. GANDHI : Did not he draft the amendment ?

Mr. F. B. P. LORY : And that, after it had been debated for a long time, the Honourable Minister pointed out that an impasse had been reached and that the only thing was to take votes and that the report of the select committee was simply the report of the majority of that committee. Then, Sir, I was no less surprised when I heard the honourable member for Surat say that a pact had been made by the Honourable Minister by which he agreed that if the select committee accepted the clause as regards the obligations on the boards to take over the present teachers, then Government would agree to a three-fourths grant. I assert that no such pact was made.

Mr. C. M. GANDHI : I never said so.

Mr. F. B. P. LORY : The honourable member may not have said so, but he implied it, and I venture to say that every honourable member of this House understood that that was what his meaning was. After the lucid explanation which has been given by the honourable member for Kolaba district it may perhaps not be necessary for me to try and straighten the tangled statements of certain honourable members who have dealt with the question of the grant. We have been told, Sir, that Government propose to reduce their present grant. As the honourable member from Kolaba district has pointed out, nothing of the sort is the case. Under sub-clause (2) of clause 13 Government agree to continue in full their present grant for primary education And under sub-clause (1) of the same clause Government agree that they will give two-thirds of all the additional expenditure under the scheme. Now, Sir, we have been told by more than one honourable member that it will be impossible for the boards to work this new scheme by means of the additional taxation that is placed at their disposal. I refer in particular to the extra one anna cess. And this, Sir, is perhaps not the proper occasion to go into the details of the financial position of the educational scheme. But, Sir, I may say this much, that I have myself studied the figures with great care, and I find, Sir, that there are a large number of boards which will be able to bear the whole of the total expenditure expected in the tenth year of the scheme by means of two-thirds of the additional one anna cess. The intention, Sir, of Government will be seen from the

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words which were originally inserted in the bill ; the words " two-thirds or such larger proportion as Government may agree to give " were purposely inserted for the reason that the burden would fall very differently on the different boards. There are some boards, not many, perhaps one or two, which will be able to maintain the additional expenditure involved by means of one-third of this additional local cess. There are other boards which are poor, and it will be hard for them to maintain the additional expenditure out of three-quarters of the additional cess. And that, Sir, was the reason why it was not thought desirable to promise any more than two-thirds, so that Government might be able to discriminate and to give larger grants to special poor and backward districts.

I must confess, Sir, that I have been somewhat pained by the attitude which some honourable members have taken in their criticism of Government in the matter of the Government contribution to primary education. Are the honourable members of this House aware that Government out of a total expenditure of a little over 180 lakhs on education are contributing roughly 100 lakhs to direct expenditure on primary education, and over and above that they incur large expenditure on the training of teachers for primary education, which might legitimately be debited against the head of primary education, while it would also be fair to debit the cost of inspection to that head ? Are the honourable members of this House aware that while this Government spends almost a crore of rupees on primary education, the other provinces of India together spend only about a hundred and twenty lakhs, a very small sum over and above what is spent by the Bombay Presidency ? I think, Sir, that, if honourable members will reflect and will consider all that Government have done in the past for primary education, they will realise that any fears they have that Government will not in the future do its best to provide funds for the further expansion of primary education are groundless.

There is only one other point I should like to make before I sit down. The honourable member from Thana expressed his regret that no mention had been made in the bill of the period in which this scheme is to be introduced. Now, Sir, honourable members will remember that at the first reading of this bill the Honourable Minister pointed out that to lay down definitely in the bill the precise requirements as to the limit of time within which a certain scheme was to be introduced would require the addition to the bill of a schedule which would run into several volumes. Government, Sir, have accepted the principle laid down in the Report of the Compulsory Education Committee that a certain scheme for the introduction of compulsory education extending over ten years shall be introduced. I would point out, Sir, that that scheme does not provide—and the Committee realised that it was not possible for it to provide—for universal compulsory education. What that scheme provides for, Sir, is to bring some 80 per cent. of the total number of boys of school-going age into the schools within ten years and a certain percentage of the girls. But, Sir, the Honourable Minister authorises me to say that Government are quite prepared to accept the amendment to the preamble moved by the honourable member from Satara (Rao Bahadur Kale) in which the intention of introducing this scheme within ten years is specifically mentioned. As I have said, Sir, it would not be possible to lay down a scheme which says that in such and such areas education must be introduced, because that would involve a detailed schedule of particulars

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which could not possibly be put into the clauses of any bill. But I repeat, Sir, that it is the intention of Government to give full effect to the scheme as framed by the Compulsory Education Committee, which scheme, Sir, contemplates a period of ten years.

Mr. B. G. PAHALAJANI (Western Sind): Mr. President, it is with a deep sense of regret that I rise to oppose the second reading of this bill. Though, so far as we in Sind are concerned, this bill is not absolutely required, I was one of those, who were not only enthusiastic in the Compulsory Education Committee, but very enthusiastic for the passage of a proper bill in this Council, and my only regret now has been that the bill that has emerged from the select committee, as the Honourable Minister rightly observed, was not materially altered; not because the select committee was not disposed to alter it and give it the form that it should have; not because the select committee could not be moved to give effect to the recommendations of the Compulsory Education Committee, but because the Honourable Minister himself ruled out—and that is the subject of my complaint in the dissenting note I have recorded—two of the most important amendments that were proposed to the bill in the select committee. It will be for you, Sir, to decide hereafter when we come to those clauses, if we come at all to them, whether those amendments are in order or not. But, as I was just reading the proceedings of our debate at the first reading and your own rulings on the subject when I spoke and when other honourable members spoke, like my honourable friend from Satara, Mr. Jadhav, for instance, and while I had been reading all this and while I had been reading also exactly what were the undertakings given by Government as to what amendments could be introduced in the select committee in order to give effect to the scheme, I submit, Sir, that this Council will have to consider now, before the second reading is passed and before we go into the details of the bill, whether those amendments ruled out by the Honourable Minister do not affect the very existence of primary education. You will be pleased to see, Sir, that so far as Sind is concerned 50 per cent. of the Hindus are educated and only 18 per cent. of the Mahomedans are educated. Gujarat stands the highest in literacy. Gujarat does not need the bill. It can take care of itself. Gujarat can do without the Honourable Minister's help and can educate all its children. It is not Gujarat, it is not we in Sind, that want it. It is the backward classes, the Marathas in the Central Division and the Southern Division, that were enthusiastic about the introduction of compulsory education, that need it now and that need it most, and if, Sir, my Maratha friends, who represent the vast Maratha population in the Southern and Central Divisions, are satisfied with this milk and water, with this half-hearted bill, then I can only say to them they need not expect any help in this direction from us. It is for them that my friends from Gujarat and we from Sind are fighting for the introduction of compulsory education, and I would, therefore, bring it to the notice of my honourable friends from the Southern and the Central Divisions that it is they that must insist on a more effective bill, a bill that does not leave them at the mercy of the Government or the department, but that gives them by statute what is their birthright, namely, universal compulsory primary education.

Now, Sir, I am extremely grateful to my honourable friend the nominated member from Satara, whose speech I have been reading just now, for a clear enunciation of the needs of his people. He was at one with me that the bill, as it was framed, contained little to raise any hopes or expectations

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in the minds of the Marathas of the Southern and Central Divisions. He himself believed, and I think rightly, and agreed with me completely, and so also my other Maratha friends from Belgaum and Dharwar agreed with me, that the bill was imperfect, and that the bill required many changes, though they agreed to the first reading of the bill. At the time of the first reading they all agreed with me that it was simply impracticable for any municipality or any district local board to introduce compulsory primary education if the contribution from Government was two-thirds for local boards and one-half for municipalities. Whether it was from the honourable members from Gujarat, or my Maratha friends from the Southern or Central Division, a general chorus went up from all the members at the first reading that the contribution of two-thirds for local boards and one-half for municipalities was too little. The Honourable Minister did realise the difficulty; you, Sir, did realise the difficulty. In support of this contention I placed before this Council the clear and unambiguous utterances of an Honourable Executive Member of this Government, Sir Mahadev Chaubal, in 1918. And you, Sir, were of opinion that these matters could be brought up before the select committee. Now, Sir, this is the commencement of the second reading, and therefore, if, at the very commencement of the second reading, the Minister comes down upon us, and places before us His Excellency's order that he declines to give a greater proportion than the two-thirds that was proposed by the Honourable Member in charge at the first reading: if upon us is thrown the thunderbolt that no more will be given, and if that is the condition on which the Southern and Central Divisions must take it or not at all, whether they are able to carry out the provisions or not, whether the municipalities or local boards have sufficient money to carry out the provisions or not; if we are told that the Government is not in a mood to give them more than Government chooses to give them, then, Sir, my exhortation to the honourable members from the Southern and Central Divisions is that it is for their interest to reject the bill wholesale. If they want to make this bill a reality, if they want to be able to have the financial ability to carry out the provisions of this bill, then, Sir, let them insist that the Government shall give them three-fourths, which the select committee has given to them. Let them tell the Government that they do want help, not only help but primary education, but that it is impossible to have it owing to their financial condition without this contribution from Government in that part of the country. Now, Sir what is the position in which we find ourselves? The position is that the Government Member for Education came to this Council at the introduction of the bill with a certain proportion, and that the contribution from Government to the local boards would be two-thirds and to the municipalities one-half. From the very beginning to the end of the first reading one chorus went forth that the proposed contribution was not sufficient, but the point was reserved for the select committee. The select committee unanimously or by a majority came to a definite conclusion that three-fourths should be given to the local boards, and I may remind the Honourable Minister that so far as the municipalities were concerned, when I raised the question that one-half was not sufficient, he was pleased to remark that if one-half was not sufficient, the Government should be given the discretion of enlarging the one-half to two-thirds, and it was at his suggestion that that additional provision, so far as the municipalities were concerned, was brought into section 13. I shall not be surprised if hereafter the

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Honourable Minister receives a command from His Excellency that even that additional discretionary provision of increasing the one-half to two-thirds will also be a fresh charge upon Government revenues, and therefore should not be allowed. Why? There is an amendment to that effect from the Honourable Minister himself to remove the discretion clause.

The Honourable the PRESIDENT: I understand that this increase to three-fourths from two-thirds was made in the select committee, without the previous sanction of His Excellency the Governor. That statement has been made, but as regards anything else, I do not think that it is proper to say that His Excellency, having once made his recommendation, will go back upon it. There is no authority for it, and I hope the honourable member will not make any remarks implying a motive of that character.

Mr. B. G. PAHALAJANI: It is unfortunate that I have been misunderstood. I say that the original section 11, now 13, contained a provision, a definite and a positive provision, that the contribution for municipalities shall be one-half. At the time we went into select committee, so far therefore, the sanction of the Government—I am not saying the Governor—the sanction of the Crown so far as that was concerned, was one-half for the municipalities and two-thirds for the local boards. The proportion sanctioned, therefore, was one-half and two-thirds. The select committee raised the proportion for the local boards to three-fourths, but so far as the municipalities were concerned, it was not retained at one-half positively, but an addition was made to it, namely, one-half or more at the discretion of the Government: so that, an additional charge which is discretionary was included in clause 13. That means, Sir, an additional charge which had not received the sanction of the Crown at the first reading has been put in section 13 which is now before this House for consideration.

The Honourable the PRESIDENT: How does the honourable member know that that additional charge as to the discretionary power given to the Government has not received the sanction of His Excellency the Governor?

Rao Bahadur R. R. KALE: Because there is an amendment to delete it from the Honourable Minister himself.

The Honourable Dr. R. P. PARANJPYE: The original proportion is what has been sanctioned by Government on the first reading in the clause as originally drafted.

The Honourable the PRESIDENT: Sanctioned by whom?

The Honourable Dr. R. P. PARANJPYE: Sanctioned by Government at the first reading.

The Honourable the PRESIDENT: Government cannot sanction unless.....

The Honourable Dr. R. P. PARANJPYE: The proportion proposed on the first reading, that is what the Governor has sanctioned.

The Honourable the PRESIDENT: Of course, after that, it is quite competent to the Council to reduce the grant; only it cannot increase it without the previous sanction of the Governor.

Mr. B. G. PAHALAJANI: I am, therefore, bringing the attitude of the Government to this bill as one of the considerations to be placed before the Council in connection with the second reading of the bill, before we enter

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into the consideration of the clauses. Now, therefore, so far as this bill is concerned, the general consensus of opinion at the first reading was so great, that it is hardly fair that this bill, with all these pecuniary and financial limitations, should be allowed to be passed into law, enabling Government to compel the municipalities and local boards to introduce compulsory education, without their having sufficient means to do so. You will be pleased to see, Sir, the decided one-sided hardship in this matter if the Government is empowered to compel local authorities to introduce compulsory education, in the absence of sufficient funds. The sources of income of these local authorities are limited by schedule II of the Government of India Act, and they cannot tap any other sources except the definite ones stated there. We have got the fact, admitted by the Honourable the Revenue Member in 1918, that all those sources of taxation, either to the municipalities or to the local boards, are altogether insufficient to raise money for compulsory education. I put it to the House whether it is possible for the present for local authorities to carry out the provisions of this bill and compel people without money in their possession. If they are not sufficiently armed and if they have not the sinews of war, it is extremely doubtful whether this bill on paper is not to have the same fate as the Patel Bill. Therefore, I say that it was the duty of the Honourable Minister in charge of this bill to emphatically place before His Excellency the Governor and before the joint Government the situation and to insist on three-fourths contribution to be given. In that assertion he has the Council and the huge uneducated masses at his back. If our elected Minister is powerless to assert his will on the Government, it is for this Council to come to his help, assert their will and unequivocally tell the Government that they shall not pass this bill unless it has rendered its working practicable by advance of sufficient means and unless they improve the resources. So far as this point is concerned, I end.

The Honourable the PRESIDENT: The Council is adjourned to 2 p.m. to-morrow, Thursday the 14th December 1922.

*Wednesday, the 14th December 1922.*

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The Council re-assembled at the Town Hall, Bombay, on Wednesday, the 14th December 1922, at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BELL, Mr. R. D
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CADELL, Mr. P. R.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHITALE, Rao Bahadur G. K.
CLAYTON, Mr. F.
COCKE, Mr. H. G.
COOPER, Khan Bahadur D. B.
DABHOLKAR, Mr. V. A.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DUBHASHE, Mr. SHANKAR BALKRISHNA
DUMASIA, Mr. NAOROJI M.
DWARKADAS, Mr. KANJI
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHULAM HUSSAIN, The Honourable Khan Bahadur SHAIKH
GULAMHUSEN, Mr. SULTANALI SALEMANJI
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HAVELIVALA, Mr. M. A.
HAYWARD, The Honourable Mr. M. H. W.
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA
JADHAV, Mr. B. V.
JENNINGS, Major General W. E.
KALBHOR, Mr. G. M.

KALE, Rao Bahadur R. R.
KAMBLI, Mr S. T.
LALBHAI AMBARAM, Mr.
LALJI NARANJI, Mr.
LAWRENCE, The Honourable Mr. H. S.
LIGADE, Mr. S P.
LORY, Mr. F. B. P.
MANSURI, Khan Saheb A. M.
MEAD, Mr. P. J.
MEHTA, The Honourable Mr. C. V.
MOHOMED SALAHUDDIN K., Mr.
MOTIRAM, Rao Saheb RUPCHAND
MURPHY, Mr. S. J.
MUTALIK, Sardar V. N.
NELSON, Mr. F.
NILKANTH, Rao Bahadur R. M.
NIMBALKAR, Mr. K. B.
PAHALAJANI, Mr. B. G.
PARANJPYE, The Honourable Dr. R. P.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Honourable Sir IBRAHIM
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SAYED, SHAHJADE SAHEB HAIDAR SAHEB
SETALVAD, The Honourable Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY
SURVE, Mr. A. N.
THAKOR of AMOD, Sardar NAHARSINGHJI
THOMAS, Mr. G. A.
TRIVEDI, Mr. G. B.
WOODS, Mr. E. E.

The Honourable the PRESIDENT : Order, order.

## MOTION FOR ADJOURNMENT.

Mr. IBRAHIM S. HAJI (Bombay City) : Sir, I beg leave of the Council to move to-day after the question hour for the adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance

[Mr. Ibrahim S. Haji]

namely, the introduction of the third enclosure at the Bombay race-course on Saturday the 9th December 1922 by the Western India Turf Club—licensee of Government under the Bombay Race-courses Licensing Act of 1912,—raising the question that such introduction negatives the effect of the recent amendment of the Bombay Prevention of Gambling Act, 1887, whereby bucket shops and sporting clubs have been totally suppressed, and that this third enclosure should at once be closed by an express condition in the terms of the license issued to the Turf Club under the Act of 1912.

The Honourable the PRESIDENT: What is the responsibility of Government in this matter ?

Mr. IBRAHIM S. HAJI: Under the Bombay Race-courses Licensing Act, 1912, the Government of Bombay have issued a license to the Western India Turf Club to run races under particular conditions. One of the conditions of that license is that they can have enclosures in which there shall be betting to the extent of Rs. 3 the least and Rs. 10 the highest, and therefore up to now the Turf Club used to have two enclosures, with bettings at units of Rs. 5 and Rs. 10. When this Council amended the Bombay Prevention of Gambling Act this year, it was expressly stated that Government would see that poor people would be protected from the evil of gambling. Therefore, the Government brought this Act to suppress bucket shops, and that has been very effective. But the Government have not made similar conditions in the terms of the license issued to the Turf Club, and the Turf Club have opened a third enclosure at a cheaper rate with an admission fee of Re. 1 and betting at the unit of Rs. 3. The opening of this third enclosure at the cheaper rate gives ample opportunities to the poor people to resort to the race-course and thus negatives the amendment of the Bombay Prevention of Gambling Act.

The Honourable the PRESIDENT: I understand that the position according to you is this: that the gambling in the bucket shops which has been made illegal by the Bombay Prevention of Gambling Act has been transferred to the new enclosure opened by the Turf Club. So far I follow, but what ought Government to have done or not to have done in order to prevent the opening of the enclosure by the Turf Club ?

Mr. IBRAHIM S. HAJI: Under the Race-courses Licensing Act of 1912, the Government have issued a license to the Western India Turf Club in which it is expressly laid down as one of the conditions:

"such other conditions as may from time to time be framed by the Licensees with the approval of the Governor in Council: provided always that the Governor in Council may at any time during the currency of the license add to, amend, vary or rescind any of the conditions framed under this clause."

The Government have omitted to introduce into the body of the license such conditions as will prevent the Western India Turf Club from opening an enclosure which will attract poor people.

The Honourable the PRESIDENT: The second condition according to you is clear: you contend it is the duty of the Government to modify the condition in the license which is illegal. When was the new enclosure opened ?

Mr. IBRAHIM S. HAJI: On the 9th instant, last Saturday.

The Honourable the PRESIDENT: To-day is the 14th. I think Government ought to have some time. I should allow this motion for leave, provided *prima facie* evidence was given to me that Government were asked and have declined to interfere in the matter and modify the license.

Mr. IBRAHIM S. HAJI : Sir, in this license, which I read to you just now, it is laid down :

"such other conditions as may from time to time....."

The Honourable the PRESIDENT : I am at one with you on the first two points as points of order. I concede them only for the purpose of the point of order : I do not know and have nothing to do with the merits. Conceding on the point of order that Government ought to make the opening of this new enclosure illegal, they can do so only by importing new conditions into the license. Now, the enclosure was opened only last Saturday, and it is only four or five days since then. Have Government in any way intimated or taken any action to say that they approve of the conduct of the Turf Club and that they are not going to stop it ? Is there any *prima facie* evidence ?

Mr. IBRAHIM S. HAJI : Sir, the Honourable the Home Member categorically denied the other day the fact of the existence of the third enclosure.

The Honourable Mr. M. H. W. HAYWARD : I deny that. That is not what I denied.

The Honourable the PRESIDENT : We need not go into that. It is quite clear you have informed the Honourable the Home Member of it and he knows it. If the question about the opening of the third enclosure is an open question, then I should have rejected your motion at once, but what I want to know is, having brought it to Government's notice and now that they know it, have they by any word or act shown that they approve of the opening of the enclosure and that they are not going to interfere with it and modify the terms of the license as you require ?

Mr. IBRAHIM S. HAJI : Sir, I put a question the other day with your permission, but up to now no reply is forthcoming.

The Honourable the PRESIDENT : There is a *prima facie* case to call upon the Honourable the Home Member to say what he has got to say, and I will decide the point of order on the motion for adjournment after hearing him.

The Honourable Mr. M. H. W. HAYWARD : Sir, I can settle that question at once. I knew nothing of the third enclosure until it was mentioned to me by the honourable member opposite (Mr. Kanji Dwarkadas). I said that I would look into the matter. I have done this and kept my word and we have already written on the subject to the Turf Club. I submit, Sir, that we have done all we can to ascertain the exact facts with a view to remedy, if necessary, the state of affairs brought to notice.

The action taken in opening the third enclosure is not contrary to the license already issued. There is nothing in that license to prevent the opening of a third enclosure. The only relevant condition at present in the license is that the tickets on the totalizator should not be less than three rupees. My honourable friend opposite has ascertained that that condition of the license has not been broken and that the Turf Club do not issue totalizator tickets for less than three rupees. We are not in a position, therefore, to stop the third enclosure until we amend the license and it must be obvious to anybody with any sense of justice that we cannot amend the license without obtaining from the licensee a report of the exact facts and the reasons for opening the third enclosure. We must, therefore, await the report of the full facts and the remarks of the Turf Club. It seems to me that that is only fair, before taking any immediate action on the facts brought to our notice.....

The Honourable the PRESIDENT: You would require some time to make full enquiries, I suppose?

The Honourable Mr. M. H. W. HAYWARD: We have already taken steps to make enquiries. We want time to ascertain how matters stand.

The Honourable the PRESIDENT: Does that satisfy you, Mr. Haji? The rule and practice in the House of Commons, in regard to such motions, is, as the Speaker has often pointed out, that if Government says that they are making enquiries and that they will take such action as they think fit in the matter after their enquiries, the motion is not allowed until Government have taken some action or come to a decision either by doing something which they ought not to have done under the law or by failure to do something which they ought to have done under the law. The Honourable the Home Member says Government are making enquiries in the matter and it is really a common place, of Parliamentary procedure that, before a discussion of this kind can take place. both sides must have full information placed before the House. Now that the matter has been brought to the notice of the Council, in this case the Honourable the Home Member will probably make some statement during the present session before the Council so that the honourable member Mr. Haji can decide as to whether he should renew his notice of motion for leave for the adjournment.

The Honourable Mr. M. H. W. HAYWARD: I will endeavour to do so, but I must have time to make full enquiries before deciding what steps, if any, should be taken.

The Honourable the PRESIDENT: I hope my point has been properly apprehended. Enquiry means an enquiry into the facts, but if upon those facts the honourable member Mr. Haji wishes to take the sense of the House, he has every right to do it. Therefore, if during the next three or four days, the Honourable the Home Member will say what the state of things is, it will be open to Mr. Haji to take such action as he likes and then I may have to decide whether this motion is in order or not.

The Honourable Mr. M. H. W. HAYWARD: I will endeavour to ascertain the exact facts and their effect on gambling. That is the point of the honourable member's motion. The effect.....

The Honourable the PRESIDENT: Whatever it is, during the next three or four days before this session closes, if the Honourable the Home Member will say what are the facts and what Government either intend to do or not to do, it will be open to Mr. Haji to ask for leave, and then I shall decide whether it is in order or not.

The Honourable Mr. M. H. W. HAYWARD: I will do my best in the matter.

The Honourable the PRESIDENT: Does that satisfy Mr. Haji?

Mr. IBRAHIM S. HAJI: Yes, Sir, that satisfies me.

## PRIMARY EDUCATION BILL (BILL No. XVII OF 1922).

(Motion for second reading further considered.)

Question again proposed that Bill No. XVII of 1922 be read a second time.

Mr. B. G. PAHALAJANI (Western Sind): Mr. President, last night I believe I showed conclusively to the House that, without financial aid from

[Mr. B. G. Pahalajani]

Government, it would not be possible for local boards to carry out the provisions of this bill and that, therefore, it was absolutely necessary that Government should give them far better resources than those which Government are prepared to give them now.

Now, Sir, the other ground on which I propose to oppose the second reading of this bill is the indefiniteness of the bill and the complete absence from it of any measure of compulsion either on the Government or on local authorities. You, Sir, are aware that at the first reading of this bill almost all the members that rose complained of no duration or period fixed in the bill for the completion of the course of primary education. You are also aware that the honourable member Mr. Chikodi and the honourable nominated member from Satara raised the question that this bill was wanting in that most important particular defined by the recommendations of the Compulsory Education Committee over which you, Sir, had the honour to preside. You were pleased to rule then that it was a matter for the select committee. I think at the first reading of the bill it was perfectly understood that the select committee had full power of introducing a definite, fixed period in accordance with the recommendations of the Compulsory Education Committee. With that ruling from the Chair and with that assurance of the Honourable Minister in charge of the bill, the bill went to the select committee.....

The Honourable the PRESIDENT: May I point out to the honourable member that I allowed honourable members yesterday towards the end of the meeting to refer to what took place in the select committee? I request them, however, not to say here anything as to what occurred in the committee, on points of order there and by way of discussion. I am not a tribunal of appeal from the rulings of the chairman of the select committee. The only thing that I can do to prevent any injustice or supposed injustice is to allow honourable members to propose here amendments which they moved in the select committee but which the chairman ruled out of order, provided I think they are in order. If at the the first reading I said that this matter might be discussed in select committee, what I meant was not that there should be any complaint about the conduct of the chairman of the select committee, but my ruling was that I would not treat it as a matter of principle but with the general assent of the House as a matter of detail which it is the right of every honourable member to renew at the second reading. So, no one will be prejudiced by it, but referring to the proceedings of the select committee and to what took place there and the rulings of the chairman of that committee is irrelevent, because I am not here to sit in judgment on those rulings and proceedings.

Mr. B. G. PAHALAJANI: I am grateful for your guidance, Si but in connection with this matter when the second reading of the bill is before the Council, I wish to bring to the notice of this Council matters that affect the amendments themselves and the reason of their absence before that body.

The Honourable the PRESIDENT: You can say that, but not bring the Chair here into conflict with the chairman of the select committee.

Mr. B. G. PAHALAJANI: I have not the slightest intention of disclosing any conversations or what took place across the select committee's table. I have not the slightest intention of disclosing the considerations or the circumstances that were present there. All that I say is that, so far as this question is concerned, the introduction of a regular period for the purpose of carrying

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out this programme was a matter that was at issue at the first reading of this bill and was present before the select committee when it sat to deliberate over the construction of each clause.

Now, Sir, if the Honourable Minister in charge is pleased to place before this House the bill in the present form without any indication whatever of that period being fixed by the select committee, not because the select committee would not do it, but because the chairman there did not allow it, it is for this Council to consider whether the bill in the present form should be considered by this Council, whether the nature of the bill is in any way changed, whether the defects of the bill that were present in the bill at the first reading have in the slightest degree been removed at the second reading. The whole Council and all my honourable friends from the Southern Maratha Country were hopeful that the bill, when it returned to this Council from the select committee, would return in an amended form. They then said that the bill was incomplete and unsatisfactory and was not fit for acceptance of this Council until all those defects which were pointed out by them were cured. I submit, Sir, that none of those defects have been cured, and therefore to be consistent, this incomplete bill is not worthy of acceptance of the House.

Turning, Sir, to caluse 8 of the bill, which is now clause 10, we find the only addition that was made—which is the whole crux of the bill—is sub-clause (3). It reads :

"Every local authority shall, within the prescribed period, prepare as complete a programme as possible for the universal introduction of compulsory education within the area subject to its jurisdiction within a definite period."

Now, Sir, words "within a definite period" occur in a legal enactment, but "definite period" is never defined in the bill.

The Honourable Dr. R. P. PARANJPYE : "Definite period", Sir, is intended to mean separate definite period for each separate case.

Mr. B. G. PAHALAJANI : "Definite", Sir, has no significance whatever, except the interpretation given by the Honourable Minister in charge, to this Council, which may not be accepted in legal phraseology. Beyond that, this sub-clause (3) does nothing for compulsion. Even this sub-clause (3) makes no provision whatever for the proper execution of a scheme of compulsion. It only says—these are the words, Sir :

"Every local authority shall, within the prescribed period, prepare as complete a programme as possible for the universal introduction of compulsory education within the area subject to its jurisdiction within a definite period."

The duty of compulsion enjoined on a local body by this clause is only in regard to the framing of a programme. There is nothing in the whole of the bill either to compel a local authority to complete the programme within a definite period laid down in the bill or to compel the Government to carry out a programme within a definite period laid down in the bill. All that we have got in the bill is, the whole concentration of the compulsion is, that the local authority shall be compelled to *prepare a programme* to be completed or to be carried out within a definite period of years. Now, Sir, if the "definite number of years" is left to the sweet will of the deciding authority, if the Government is to regulate the progress of compulsory education in accordance with their finances, then I say, Sir, this bill, as my honourable friend from Satara said last night, will have the same fate as the Patel Bill. If things are left as they are, unless an undertaking is given by the Government or the local authority that they will carry out or complete the programme within

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a certain definite period, to be laid down in the bill itself, I do not think, Sir, this bill goes far enough. The whole question, therefore, being of compulsion and there is no word about compulsion in the bill, my suggestion in the select committee, which is my suggestion here if at all the second reading is passed, was, Sir, that there must be a provision in this bill that the Government *shall complete* the introduction of universal primary education in the whole of the Presidency, with such exemptions as they find it absolutely necessary to make, within a definite period—to be defined in the bill itself—of ten, fifteen or twenty years, whichever the Council fixes upon. The Honourable Minister himself thinks it can be done in ten years, and therefore, it can safely be taken to be ten years. Without the insertion of such a provision—I mean the insertion of a provision that the Government shall complete within ten years the compulsory primary education—the bill is hopeless. Not only shall the Government be compelled to complete the programme, but the local authority shall also be compelled to prepare a scheme as the clause reads at present and shall, as I propose, also be compelled to complete the whole programme or scheme within ten years. That compulsion must be stated in the bill itself.

That is the amendment, Sir, which was brought forward in the select committee and that was ruled out of order. Until, I say, Sir, the Honourable Minister in charge is prepared to introduce that measure of compulsion in the bill himself, I do not think, Sir, this House will be justified in accepting this measure as it is. The constitution of a school board and such other things are minor matters so far as compulsion is concerned. They provide merely a machinery and are not the essence. Those matters do not even touch the fringe of compulsion. The introduction of text books, the introduction of school attendance officers, these are all too small considerations to weigh with this Council at this juncture. The whole question for the consideration of the Council is the principle of compulsion, and until that principle of compulsion is asserted and provided for, and not merely undertaken, by the Honourable Minister in charge, not left to the personality of each Minister that comes and goes, I think, Sir, this bill does not supply the need of the country, of the Southern and the Central Divisions of the country, who demand this bill. If they are satisfied with this kind of bill, which contains nothing of the kind they demand, we have little to say. We in Sind and in Gujarat are not so much in need of a measure like this. It is the southern parts of the country and the central parts that demand it. But if we are prepared to be taxed and to make a sacrifice for the sake of our brethren, we are also entitled to demand from Government that they shall give a measure which is complete in itself and which does not depend upon the whims of a particular member of the Government or a particular Government that may come in or go out, or upon the whims of a particular local authority—whether it be a municipality or a local board—that introduces it. Therefore, that most important provision of compulsion wanting in the bill emerging as it does from the select committee in nearly exactly the same form as it was at the first reading—it was admitted on all hands at the first reading that it was incomplete—I respectfully press before the House and before my honourable colleague, the Minister of Education, to consider whether this bill is fit enough in this present form to be retained in the statute book. If it is not, the best thing for him is to withdraw this and present another in an acceptable form, in a form that will give to the Southern Maratha Country full and complete opportunity for education, and not, Sir, a half-hearted measure like this in which the whole assurance is the Honourable

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Minister's speech about a ten years' programme and nothing more. If there is nothing more in the bill, I submit, Sir, the House would be justified in rejecting the second reading of the bill.

The Honourable the PRESIDENT: One word before you resume your seat. I want to make this point clear. You say the bill is defective because it provides only for a ten years' programme.

Mr. B. G. PAHALAJANI: Nothing, Sir. The bill provides no period, no programme, for extention whatever.

The Honourable the PRESIDENT: What does the honourable member want then?

Mr. B. G. PAHALAJANI: The bill must contain a definite programme executable within a definite known number of years—ten, fifteen, or any other number of years the House considers necessary, and Government accepts. The bill even now contains no provision as to within how many years this whole programme is to be carried out. The only provision in the bill is that the local authorities shall be compelled to prepare a scheme to be carried out within a definite number of years. There is no word more indefinite than the word 'definite.' The bill, as it is, contains no measure of compulsion whatever, no period within which compulsion is to be introduced, no mention of a programme, except the paper programme.

The Honourable the PRESIDENT: It does not say within how many years the principle of compulsion is to be applied unconditionally and absolutely.

Mr. B. G. PAHALAJANI: Exactly so; and to make it effective, not only is a scheme to be framed but should be carried out effectively.

The Honourable the PRESIDENT: In other words, you want the Minister to pledge himself by this enactment to this, that, within a definite period, the principle of compulsory education shall be brought into force.

I will inform honourable members why I am asking the question. Questions as regards points of order may arise. It is entirely for the House to deal with the question on the merits, but on a point of order I may have to decide whether an amendment or motion of this kind may not be of a hypothetical character—by hypothetical I mean calling upon the Council to deal with what are called remote contingencies, for we do not know whether ten years hence or fifteen years hence, by plague or famine or a cyclone or an earthquake or some great calamity, Government may not be reduced to such a position that they may not have the wherewithal to satisfy the obligations imposed upon them by the legislature by means of this enactment compelling them, *nolens volens*, to fulfil the obligation within that fixed period.

Mr. B. G. PAHALAJANI: May I add one word, Sir?

The Honourable the PRESIDENT: Yes, if the House assents. I see none objects. Therefore, Mr. Pahalajani may be allowed to address.

Mr. B. G. PAHALAJANI: Sir, when the time comes for the ruling on that point, the matter, I am sure, will be fully considered from all aspects, but preliminary to that, I will only mention that whatever may be the binding on the Government as regards the future so far as finance is concerned, so far as the laying down of the policy is concerned, that policy should be completed by a legal enactment. We have got an example of that in the Bombay City

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Municipal Bill which the Council recently passed, in which Government has laid down a policy for complusory primary education for Bombay, and in that Act, Government have provided that, whatever may be the form of Government and whatever may be the state of the finances, they will contribute the same share to the Bombay municipality as they do to the rest of the municipalities. So far, therefore, we have got examples to decide the question. At present I will only say that that procedure exists. Apart from that, Sir, this matter does not apply to compulsion on local authorities. There is nothing repugnant in any procedure to put in a clause in the bill itself that local authorities shall frame a programme, and not only frame a programme, but shall complete that programme within so many years.

The Honourable the PRESIDENT: I see that Mr. Pahalajani intends to pursue the matter further.

Mr. B. G. PAHALAJANI: I have nothing more to say.

The Honourable the PRESIDENT: I comprehend it, and I see the force of what you say.

Mr. A. N. SURVE (Bombay City, North): Mr. President, the question before us is whether we shall agree to the second reading of this bill being passed, or whether we shall wreck it at this stage. The honourable member for Surat has advised that we should wreck it; the honourable member from Sukkur has made a very fervent and eloquent appeal to the Maratha members, asking them to throw out the bill at the second reading. Sir, what is the reason that is given for doing so? It is stated that the Government are going to change the rate of the grant which is recommended by the select committee. I think this is not the proper time for throwing out this bill. It is not a matter of the self-respect of some members being piqued. It is a matter which is vital to the interests of the backward communities. I think the course that we can prudently adopt is to pass the second reading of this bill, and if we find that the provisions in clause 13 do not come up to our expectations, then we may wreck it if it is necessary. But till that time, I submit that it would be premature on our part to do an act of vandalism. Sir, this morning I referred to the Government of India Act, and I have found out that there are some three or four sections which have some sort of bearing on this question. Section 72B does not apply, because this measure does not refer to the tranquillity of the province. Section 74E does not apply, because this bill does not refer to a reserved subject, but it refers to a transferred subject. Then a ruling was given by the Honourable the President that the question whether section 80C applies to this or not might be discussed when clause 13 of this bill comes up for discussion. I think I shall not be much wrong when I say that that point will not very much injure our prospects. On the other hand, if we throw out the bill at the present stage, we shall be putting ourselves in the wrong box instead of putting some one else there. But the thing is that we should be united when clause 13 of this bill comes up for discussion and pass it: then, if the Government object to it, it may request His Excellency to return the bill to us for reconsideration, or Government can adopt another course and reserve the bill for the consideration of the Governor General. Therefore, I submit that, instead of taking the odium and unpopularity of wrecking the bill upon ourselves, we should find out if we can put it on the shoulder of some one else. My friend.....

Rao Bahadur R. R. KALE : I understood the Chair to rule, yesterday, that altering the words to " three-fourths " by the select committee is out of order.

The Honourable the PRESIDENT : I have not yet decided it ; it has not been put to me. When we come to that clause, and my interference is called for, I shall give my ruling. We are on the general debate now on the motion for the second reading.

Mr. A. N. SURVE : I was referring to the incompleteness of the bill.

The Honourable the PRESIDENT : I am allowing a full discussion on the point.

The Honourable Dr. R. P. PARANJPYE : I have got a definite communication from His Excellency.

The Honourable the PRESIDENT : That is when we come to the clause. I cannot give a hypothetical ruling, because the clause as a particular motion is not before me actually.

Mr. A. N. SURVE : As regards the incompleteness of the bill, that is a matter of detail. The honourable the Director of Public Instruction has told us yesterday that Government will accept the insertion of the period of ten years in the preamble. I am very thankful to Government for their promise ; but, Sir, is it possible to subsist on mere promise ? What we want is that that promise should take a practical and substantial shape for us and for this Presidency. What is our experience with regard to municipalities under the Patel Act ? It was not possible for the municipalities to carry out the programme of compulsory primary education under that Act, simply on account of financial inability. Up till now only five municipalities, Byadgi, Bandra, Dakore, Satara and Surat, have undertaken to introduce compulsion in their areas under that Act. Hyderabad has applied for it, and Karachi had formulated a scheme, but the Karachi municipality has not introduced compulsion because they have not got the permission to impose education taxation. Now it is nearly four years since that Act was passed and only five municipalities have introduced compulsion in their areas. The Dakore municipality has applied to Government to do away with compulsion because it finds itself unable to meet its cost. I may tell the House about the state of affairs in the United Provinces. They have made a grant of two-thirds of the cost, and thereby have incurred a recurring expenditure of half a million pounds —Rs. 75,00,000. The result of this is described in a publication named " India in 1921-22 " by Rushbrook Williams and it is very short. He describes what has happened and what are the results of this action of Government. At page 240 it is stated :

" United Provinces took full responsibility for finding the money required by an advance which will, it is estimated, raise the recurring cost of education to half a million sterling. In the first year of its existence the primary education programme increased the total number of primary schools from 11,500 to 13,500, while the number of boys under instruction rose by eleven per cent. During the second instalment of the three years' programme the number of schools increased to 15,000 ; the number of teachers from 27,000 to 28,000 ; and the number of scholars from 0·76 million to 0·81 million. Further, returns have been received from all municipal boards showing the cost of introducing compulsory education, and on the basis of these figures the local Government has promised to bear two-thirds of the additional cost involved. "

So, Sir, you see what is the difference between two-thirds grant and a half grant which our Government proposes to give. Then, Government say that they cannot accept this extra burden. I ask them if they have tried all the resources. I submit not. In the Punjab they met with similar difficulties, and

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what have they done ? They are utilizing the means at their disposal to the utmost limit and they are going to introduce economy or retrenchment. What retrenchments they are introducing is also stated in " India in 1921-22 " at page 242 :

" In the Punjab, during the last year, considerable advances have been made in this direction. Investigation has shown that very real economy can be effected by the concentration of available resources in such a manner as to permit their most effective application. The interposition of a secretariat between the Director of Public Instruction and Minister for Education has been avoided. "

Have we done that here ? I humbly submit they have not done it. Then it is stated :

" An educational ' general staff ' is being collected at Headquarters with the saving thus achieved. Specialist teachers in training colleges have been concentrated rather than diffused ; the system of inspection has been simplified ; and overlap has been eliminated."

These are the various measures which the Punjab Government has adopted in order to advance their primary education. Why should our Government not follow the example laid down by the Punjab ? Then this Government has to remember some other facts. We are not going to get the two-thirds and three-fourths grant. At present Government pays 88 per cent. They retain it, but in future they will give only sixty-six per cent. as regards the additional cost, consequent upon introduction of compulsion and in lieu of it they are going to deprive the local board of fees which it receives from students. Now, what compensation is Government going to make for this loss of fees to the local bodies ? But loss of fees is not the only thing, because the Primary Education Bill has saddled the local bodies with additional burdens in the shape of teachers' pension fund, etc. Therefore, it is necessary that in this connection Government must consider whether they will give 66 per cent. grant or three-fourths grant as recommended by the select committee. Government can say that they have statutory power under which they can compel the local bodies to prepare a scheme, but I submit, Sir, that such a course will result in a total failure. It is impossible for local bodies to tax people to a greater extent. Let me remind this House that we have fallen into a vicious circle. We are poverty stricken because we are ignorant, and because we are ignorant we are poverty stricken. If we want to get out of that vicious circle, we ought to educate people and thus enable them to become rich and to bear a heavier burden of taxation. There is no other way to get out of this vicious circle. Then, the honourable member, the Director of Public Instruction, has said that this Primary Education Committee was going to introduce only 80 per cent. compulsion, but this bill is going to introduce universal compulsion. I say that it is merely distinguishing without a difference, because in the universal scheme referred to above there must be some children who can claim exemption. It is impossible to bring 100 per cent. children into school. We can never make a compulsory education scheme quite universal. The maximum that could be reached is 80 per cent. Therefore, 80 per cent. of the committee and universal scheme of the Government are identical and not different. Then, he has meant to say that the Bombay Presidency has done something more than other Presidencies in the matter of primary education. I do not know if that can be substantiated by the figures given in the " Indian Education " for the year 1919-1920. There tables of primary education are given for two years and it would be seen from them that Bombay has to make a great lee-way. Other provinces have been increasing their primary schools and have made more rapid progress than what we have done.

The Honourable Dr. R. P. PARANJPYE : Let us have the figures.

Mr. A. N. SURVE : The figures for Madras are 32,009 for 1918-19 and 33,375 for 1919-20. That is an increase of 1,369 schools. As against that, take Bombay. In 1918 there were 11,968 schools. In 1919 there were 12,714. That is an increase only of 746 schools. Take Bengal. In Bengal there were 44,925 schools and they were increased to 46,240, that is, there is an increase of 1,315 schools. Then take the United Provinces. There they rose from 12,653 to 14,830 or an increase of 2,177 in the number of schools.

The Honourable Dr. R. P. PARANJPYE : Will the honourable member at the same time refer to the figures of population of these various provinces ?

Mr. A. N. SURVE : The figures of population are not given in this book, therefore, I cannot cite them. If the Honourable Minister knows them, he can tell the house what they are.

The Government has raised money by fresh taxation ; therefore, they will be in a position to give $\frac{2}{3}$ and $\frac{3}{4}$ grants recommended by the select committee. But, if they find it difficult to do so, I make bold to suggest that a loan may be raised and out of it the cost of spreading primary education be defrayed. What will be the result if you do that ? We are told that in India Government cannot give more money for education because it is a very big country and Government have to spend a great proportion on defence against foreign aggression and provision against internal strife. If we spread education and educate the people, there will be no internal strife and thus the Home Member's charges for Police will be curtailed. Sir, with these remarks I submit that it would be premature to wreck the bill at this stage.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I rise to make a few observations as this debate is intimately connected with local self-government. The present position of the grants for primary education to local boards and municipalities is this. As regards local boards, Government gives 88 per cent., and 12 per cent. is borne by the board : as regards municipalities, Government pays 50 per cent. and 50 per cent. is borne by the municipalities. Under the new bill, the present position will continue regarding the old expenditure, but as regards the additional expenditure that will be incurred for the expansion of primary education as well as for the introduction of compulsion, Government will pay two-thirds to the local boards, two-thirds to the smaller municipalities and half to the larger municipalities such as Ahmedabad, Surat, Karachi, which have already got a large number of schools. Sir, the total liability of the Government in regard to the carrying out of the whole programme of primary education under the bill will be an additional recurring charge of a crore of rupees. At present, Government spends a crore of rupees on primary education. Under this bill, with the two-thirds grant to the local boards and half to the larger municipalities, an additional crore will have to be spent. Now, Sir, what I submit is that this additional burden of a crore for introducing compulsory primary education throughout the Presidency is a great venture on the part of Government under the present financial conditions. We have now a deficit budget. Not only that, but our resources are also limited. What are the main sources of revenue in this Presidency ? Leaving aside the minor sources, the two main sources of revenue are land revenue and excise. Land revenue in the Presidency depends on the rains and in Sind on the vagaries of the Indus. Therefore, we are not certain about the revenue

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from land. Then, coming to excise, I think the House knows that they have decided that they want to do away altogether with excise and that the Excise Committee is sitting in this matter. I am sure the recommendations of that committee will soon be sent to Government and Government, I hope, will give effect to those recommendations. But however that may be, if we look to the figures of the excise revenue, we can see that the revenue from excise is dwindling, and I am afraid, as public opinion is against excise, that source of revenue might altogether disappear. Now, these are the two main sources of revenue, and both of these are liable to fluctuation. In these circumstances, is it not a great venture on the part of Government to undertake this extra liability of one crore of rupees ?

Now, Sir, coming to the arguments of my honourable friend from Sukkur, to the effect that the bill will not be effective, and that it will be a dead letter, if the proportion of grants embodied in the orginal bill is given to the local boards and to the municipalities, first I will deal with the local boards. Suppose the local boards want to introduce free and compulsory education in every nook and corner of their districts within ten years. What will be their share of additional expenditure ? Let us take the first year. For the first year their additional expenditure will be two lakhs of rupees. Under the Local Boards Bill, they have the power to raise the one anna cess from one anna to two annas, and that will bring the local boards, as I have told you just now, from 25 to 35 lakhs. From the figures I have been able to find out that 25 lakhs is the lowest and 35 lakhs the highest amount that will be realised by increasing the cess. If the local boards raise the one anna cess even by a pie every year, that will bring them 2 lakhs for the first year, 4 lakhs for the second year and so on, and by raising the cess from one anna to two annas they will be able to raise at least 25 lakhs, whereas the burden thrown upon them by the Compulsory Education Bill in the tenth year will be only 20 lakhs. I think, therefore, that the statement made to the House that even if they raise the cess from one anna to two annas the local boards will not be able to bear the additional burden thrown on them by the Compulsory Education Bill, was a wrong statement. By raising the cess from one to two annas they might even get 30 lakhs, and after spending the twenty lakhs they will have some balances. Besides, we have given them the power of taxing themselves in addition to raising this one anna cess to two annas, according to schedule II of the Government of India Act. If they levy the professional tax, which I am quite sure will bring them a few lakhs of rupees, no difficulty will arise. Then there is the house-tax and so many other taxes. I challenge this House to substantiate the statement that the new bill throws additional burdens upon the boards and to point out which are those additional burdens.

Mr. C. M. GANDHI : May I know what professional tax the Honourable Minister has in view ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : There is the money-lender, the shopkeeper, the excise contractor, in fact every profession. I submit that I have shown this Council that, if the one anna cess is increased to two annas, the requirements of local boards as regards free and compulsory education will be fully met, leaving aside the other taxes which are shown in Schedule II.

It has been said in this House that the new bill throws additional duties on the boards for which they will have to incur additional expenditure.

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I challenge this House to find out one item which will require them to spend larger sums of money than they used to spend under the existing Act. There are absolutely no duties in the bill which will require more money than what they are actually spending under the present Act. Local boards are paying vaccination.....

The Honourable the PRESIDENT : I am afraid the Honourable Minister for Local Self-government is addressing the House as if the Local Boards Bill for was before the House still.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I want to challenge the assertion that the Local Boards Bill throws additional burdens on the local boards. Again, coming to the smaller municipalities, they will under this bill be given two-thirds grant. Only the larger municipalities will be given half. What are the main sources of income of the smaller and larger municipalities ? They are indirect taxes. The municipalities want to tax the poor by indirect taxation such as octroi and terminal tax. They try to avoid direct taxation. I am sure that, if they tax themselves to the full capacity, they will get more than is needed under this bill. I do not want to take any more time of this Council because there are amendments in regard to different parts of the bill, which I hope will pass the second reading.

Mr. S. K. BOLE (Bombay City, North) : Sir, it must be admitted that the Bombay Government is the first to introduce a scheme of compulsory primary education in British India. This compulsory primary education is really wanted more by the backward and depressed classes than by anybody else, as their percentage is too low in this matter. Up till now neither the Government nor the advanced classes have done anything in the matter, but now Government have come forward with their scheme. This scheme will, it is said, remain a dead letter if Government does not make adequate provision for sufficient funds. On the other side, Government is prepared to bear half the cost in the case of municipalities and two-thirds in the case of local boards. This, it is said, is insufficient and some honourable members of this House have asked for two-thirds in the case of municipalities and three-fourths in the case of local boards. And, if that is not done, they say that they would oppose the second reading of this bill. May I, however, ask as to who will be the sufferer if this bill is thrown out ? I think the backward and the depressed classes will be the sufferers. I think half a loaf is better than no loaf at all. I am as enthusiastic over the matter as some of my honourable members here, but it is to be remembered that enthusiasm has to be governed by practical business considerations. If the extra powers of taxation are availed of as stated by the Honourable Minister of Local Self-government, I think the municipalities as well as the local boards will be able to realise more money and to spend more money on education. The Bombay municipality is going to introduce a scheme of free and compulsory education in this city and in order to meet the extra expenses they are going to levy an educational tax. I think it would be better if the mofussil municipalities and local boards were to follow the lead given by Bombay municipality. I think there will be many municipalities and local boards which might not have taxed themselves as much as they could. There may be others who might have ample funds. Under those circumstances, I submit that each case should be decided on its own merits and if it is found after enquiry that a certain district has taxed itself to the fullest capacity, and still is not able to meet the extra expenditure, then in that case if an appeal is made

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to Government, I think and I hope Government will be prepared to meet the extra cost, after making due enquiry, incurred by those districts.

As regards the time limit, I think the honourable member from Satara is going to propose an amendment for a time limit to be introduced in the preamble of the bill. I think that that will be sufficient for the purpose. With these words, I submit that the House will be well advised to pass the second reading of this bill, and that for the sake of nine rupees in a hundred, as has been pointed out by one honourable member, this House should not throw this bill out.

Mr. G. FINDLAY SHIRRAS: Mr. President, I merely wish to deal with the criticisms put forward by my honourable friend, the member for Western Sind. Before I do so, however, I should like to say that there seems to be some misapprehension in regard to some of the provisions of this bill. The London "Times" has written about this bill that it is the biggest bill brought before any legislature under the reformed constitution. Undoubtedly it is. No one can deny that and we feel that what we want at the present time is more and better education. In Scotland, as I said at the previous meeting of the Council, there was a national appreciation of education in a statute dated 1494, and ever since the reformation the educational aspirations of the people have been vigorous. Largely under the influence of John Knox in the sixteenth century, Scotland has gone ahead far quicker than most other countries of the world. In 1560 the Church Assembly put forth the *Book of Discipline* providing that "every several kirk" in a town "of any reputation" was to have its Latin school, that the "up a land" or country parts were to have a teacher of the "first rudiments" in every parish. Real practical effect was given to this by the Scottish Parliament in 1696. The more one lives in this country, the more one sees that, in order to get increased production and a higher standard of living, we must all work together and get compulsory primary education. I think, Sir, there is not the slightest difference of opinion among the members of this House as regards that. We require the pure sweet water of primary education.

But, Sir, the honourable member from Western Sind has reduced his objection to two points. He says he objects to Government's bearing only 50 per cent. of the educational expenditure in the case of the municipalities and two-thirds in the case of local boards. Now, Sir, I have looked up some of the Acts regarding education, and I shall read from the English Education Act of 1918, where the House will see that the Board of Education—and I can assure you it is a very strong—I may even say bureaucratic Board of Education—prescribes not less than 50 per cent. I quote from section 44 of the English Education Act, 1918 (8 and 9 Geo. V, Cap. XXXIX).

"The Board of Education shall, subject to the provisions of this Act, by regulations, provide for payment to local education authorities out of moneys provided by Parliament of annual substantive grants in aid of education of such amount and subject to such conditions and limitations as may be prescribed in the regulations."

Then it goes on to say:

"The total sums paid to a local education authority out of moneys provided by Parliament and the local taxation account in aid of elementary education or education other than elementary, as the case may be, shall not be less than one half of the net expenditure of the authority recognised by the Board of Education as expenditure in aid of which parliamentary grants should be made to the authority."

I need not read out the details, Sir. Any one can find them out from the Act on page 613 of Chitty's Annual Statutes for 1918. It is provided there

[Mr. G. Findlay Shirras]

that the payment shall not be less than half of the net expenditure incurred by any local authority recognised by the Board of Education as expenditure on elementary education. That is the proportion prescribed by law. The Government of Bombay, therefore, so far from being niggardly, is erring on the side of great generosity.

Then again, there is the question of finance. I cannot give the figures at the present time, but I can assure honourable members that the Chief Secretary has been devoting his nights and days to the question of balancing the expenditure and income in the budget. That is a very intricate question—retrenchment here and economy there. That is the one thing that makes for success in a budget of any Government. It is impossible for any Government in the present state of affairs to commit itself on educational expenditure to the extent that some members propose, and, as Government is, I understand, accepting the amendment of the honourable member from Satara regarding the preamble of the bill, I am sure that we shall all be satisfied. We cannot at the moment afford to take our financial ship into an uncharted ocean of extravagance.

Now, Sir, the last point, the question of compulsion—I hope I have not misunderstood the honourable member from Western Sind in what he has said on this. He feels, and I feel, that when we get every man educated in this country, production and agricultural income, and indeed our national income, will be very much better than it is now. I mean education in the real sense, education which makes better citizens, with a higher standard of living and fitted for better work. Well, Sir, if Government were compelled to introduce compulsion in the sense understood by the honourable member for Western Sind, the legislature would in effect be attempting to make a contract with Government which is unreasonable. Government must refuse firmly and unhesitatingly to abandon its duty and to evade its responsibilities. All Governments in these matters never hand over their powers and I am confident that the House will agree that Government must be left with those responsibilities undertaken under the Act. Government must govern and not abdicate its duties even to the legislature. This is what is done in all the other countries.

Rao Bahadur G. K. CHITALE (Ahmednagar District): It is, Sir, with some amount of disappointment that I wish to address the House, because I know the Honourable the Education Minister will throw in my face the recommendations of the Primary Education Committee, when it recommended a two-thirds grant-in-aid.

Rao Bahadur S. D. GARUD (West Khandesh District): Is the honourable member in order in speaking again on the same motion? He spoke yesterday on the bill and he is speaking again. He says he was speaking yesterday on a point of order.

The Honourable the PRESIDENT: Yes, the honourable member Rao Bahadur Chitale spoke yesterday and therefore is not entitled to a second speech on this.

Rao Bahadur G. K. CHITALE: I did speak, Sir, but it was on a point of order. The Honourable Minister said His Excellency the Governor had ruled the proposal about three-fourths expenditure out of order. There was some discussion on that matter and I spoke on it, but not on the motion for the second reading.

The Honourable the PRESIDENT: When I allowed speeches on the motion, I remember you distinctly said that you must wreck the bill if this was so and so.

Rao Bahadur G. K. CHITALE: If I am ruled out of order, I have nothing further to say, but I believe that there was some discussion on that point of order and I merely spoke on it. If the Chair rules me out of order.....

The Honourable the PRESIDENT: I have not the slightest objection to allowing the honourable member to speak a second time under the circumstances, provided the House gives him leave. Does the House give him leave?

Question put and leave refused.

Dr. S. S. BATLIWALA (Bombay City, North): It is a matter of regret, Sir, that we, after having advanced so far in promoting primary and compulsory education, and when the whole Presidency was yearning for compulsory education, should come forward and suggest "wreck the bill and do not go forward" simply because certain proposals made in the select committee were not accepted by the chairman of the select committee. Sir, however that may be, whether the chairman was right or wrong—which I shall deal with a little later on—yet I for my part would never agree to the proposal of wrecking the bill or to put off the bill even for a single moment more than is absolutely necessary, because we will in that case be depriving the needy, the most indigent, and the most illiterate, of their legitimate want. We will be depriving them of the light which we are all agreed to provide. Mr. President, I would appeal to my honourable friends over here that they should bear in mind the public opinion on this subject and look upon the subject from a broad point of view and see that we do not stunt the progress of compulsory education which we have all at heart and which is required for the advancement of the masses. When the honourable members from Bombay requested the Honourable Minister for Local Self-government to postpone the consideration of the Bombay City Municipal Bill for a few months, for very good reasons, we were told by some of the members here that the reform of the Bombay municipal corporation was long overdue, and that the bill could not be delayed any further. If that argument was applied to the Bombay City Municipal Bill, it ought to apply with still greater force to the Compulsory Primary Education Bill, which is the dire necessity of the masses and the illiterate classes. Sir, I am exceedingly sorry to find that some of the honourable members here have gone to the length of advising us to wreck the bill. I ask them, if that is done, how will they face their electorates? The people are clamouring for compulsory primary education for the last several years and if the honourable members are questioned by them as to what they have done about it, are they going to answer them that they have wrecked the bill? You will thereby incur their very great displeasure for not carrying out the mandate given by them. I hope, therefore, all the non-official members will not be a party to anything which puts a spoke in the wheel of progress of compulsory primary education. I do not say that Government are right and we are wrong. But what I do say is this, that we non-official members must support all reforms, which may either progress by leaps and bounds or by slow gradual progress. Let there be progress, and let us not put spokes in the wheel of progress. That is my opinion. I do desire, Sir, that honourable members should not come in the way of a progressive measure which has been so well deliberated upon by all sides in this House—by the official and non-official members and by the

[Dr. S. S. Batliwala]

Education Minister than whom there is no greater lover of education. I repeat once again and say it is not right that we should stop progress and not move any further.

Then, Sir, it is stated by those non-official members who were on the select committee that the chairman of the select committee, who is a member of the Government and who is supposed to know the policy of Government, gave them to understand that he agreed to a contribution of three-fourths of the expenditure by Government in the case of compulsory primary education to the local boards, and that on that understanding a compromise was brought about on some other points in the bill. Sir, if that is so, I regret to see that Government are now backing out of their promise.....

The Honourable Dr. R. P. PARANJPYE: I never agreed to that compromise in the select committee.

Dr. S. S. BATLIWALA: It is stated by the Honourable Minister that he has not agreed to it, and I accept that statement; but it seems to me that in the statements made by a Member of the Government, there ought not to be any loophole in any direction to induce non-official members to think otherwise. They say that the Honourable Minister has done so, and the Honourable Minister says that he did not do so knowingly or unknowingly. All the same, the fact remains that an impression was left in the minds of the members of the select committee that a compromise was arrived at after a great deal of deliberation and discussion. I am afraid, Sir, such misunderstandings have occurred more than once in this session. If as the Honourable Minister says no such understanding was arrived at in the select committee, there was nothing to prevent him to put down a dissenting minute saying that although such and such a matter was discussed, he did not agree to it, and that he could not be a party to it until he had received the final orders of His Excellency the Governor. That would have been a better procedure than to go to the Council leaving the members of the select committee under an impression that he agreed with them. In the present instance the Honourable Minister takes the Council by surprise and honourable members do not know where they are. But, Sir, I must say that even supposing that the chairman of the select committee did arrive at such an understanding in the select committee and now goes back on it for good reason, I for one will not be induced to wreck the bill and to stop its further progress. That is my point of view, and I for one would be too willing to see that the bill goes through and passes the second reading.

Rao Bahadur S. D. GARUD (West Khandesh District): Mr. President, I was one of those who were enthusiastically for the first reading of this bill, and I still retain my enthusiasm for the bill. When I heard the speech of the honourable member from Sukkur, I was reminded of a Greek saying that "there is no greater enemy of the better than the advocate of the best". If we cannot have all that we want in the bill, it is surely not wise not to have anything at all. The difference between what the Government is willing to give and the members of the select committee want to have is, after all, very small. Government is willing to give what the local boards are spending now, *plus* 66 per cent., and the members of the select committee are asking for what Government are spending now, which is 88 per cent., *plus* 75 per cen new expenditure. The difference between these two demands is the difference

[Rao Bahadur S. D. Garud]

between 77 per cent. and 81 per cent, and, after all, I think it is a small difference. But, at the same time, if there is any possibility of Government making up this small difference, I am sure the Council will no doubt welcome this attitude of Government in this particular case. But if, on the other hand, Government are going to remain obdurate, I do not think we ought, for that reason alone, to wreck the bill. We have had to wait for a very long time for this bill, and I think it is an advance upon what we have had so far. I think, therefore, that we ought to welcome the bill as it stands, and make such improvements as we possibly can make, and go on a step further. The bill is undoubtedly a step forward in the right direction, and, if we are all agreed that it is so, I think we ought not to abandon it merely for such a small difference. The district local boards will no doubt, in some cases, be seriously hampered and handicapped in working this bill. We have been told that they have been given additional resources by the Local Boards Act. But I may also remind the Minister for Local Self-government that the district local boards will also lose some money that they are getting at present; for instance, the contribution from Government in lieu of the excise cess will disappear; the excise cess has not at all been included in the bill; and there are also certain other burdens that have been placed on the district local boards. They did not have to bear the burden of paying for the vaccination establishment of the whole district. I know that only some district local boards have to bear it, and my district has been chosen as an experiment to shoulder this burden, but all the boards are not working under this burden.

The Honourable Dr. R. P. PARANJPYE: It is shouldering the burden of, but not managing, vaccination.

Rao Bahadur S. D. GARUD: There are also, I may say, certain other burdens which the district local boards will have to bear under the new bill, and they will certainly need all the help that Government can give them. I would, therefore, request the Honourable Minister for Education to do his utmost to help these local bodies in getting help from Government, and even if, in the last resort, he is not willing to do anything, I for one would certainly vote for the second reading of the bill.

The Honourable Mr. H. S. LAWRENCE: Mr. President, there seems to be a remarkable air of depression in the House with regard to this bill. I would like to say one or two words on the financial matter which, I hope, will remove certain misapprehensions in the minds of some of my honourable friends here. I am in agreement with the general tenor of the speech of the honourable gentleman who preceded me; but he made one mistake as to the payment to the local boards of compensation for the loss of excise revenue. I assure the House that there is no intention on the part of the Government to withdraw that compensation which has been given in previous years in lieu of the excise revenue.

The main point, however, is the opinion expressed by some members that the proportion which the Government are prepared to bear of the increased cost of education is not sufficient. In support of that, the honourable gentleman opposite gave this House some terrible statistics, which I could not follow, to suggest that the situation here does not favourably compare with other provinces, and that we will not get any improvement by the introduction of this bill. He then read out some passages from "India" by Mr. Rushbrook

[Mr. H. S. Lawrence]

Williams. From the same book, I wish to quote a few sentences which the honourable member had evidently missed. Mr. Rushbrook Williams says:

"In the period under review, Bombay held the lead with a percentage of total scholars to the population of 4·9—an advance of no less than 0·4 per cent. over last year's figures."

The honourable member further compared Bombay unfavourably with the U. P. in particular and omitted to mention that Mr. Rushbrook Williams says further:

"In the United Provinces and the Punjab, both of which areas have hitherto been particularly backward, a vigorous campaign for the introduction of primary education has been inaugurated."

If you begin from a low condition, a small rise will appear to be a high percentage. If you begin from a high condition, obviously a much larger actual rise may carry a small percentage.

Then, Sir, one honourable member said that the Government will give grants only up to two-thirds or three-fourths, and not more. That again is a mistake. On behalf of the Minister and the Government, I wish to say that it is the minimum, and any other interpretation is not a correct representation of the intention of Government. The legal liability has been undertaken by Government up to that limit; and that is the plain meaning of the clause.

I wish to point out to the Council that this bill is a notable advance over all other parts of India and wish to impress on the House once again that clause 13 compels Government to pay so much and it does not prevent the Government from paying more.

Mr. D. B. DALAL (Panch Mahals District): Sir, the select committee, bearing in mind the remarks falling from experienced honourable members who have been on local boards and municipalities for the last so many years, thought what the Government had proposed in the bill was inadequate for the successful working of the Act, and therefore tried to introduce a compromise between Government and such experienced members by introducing a *via media* in regard to Government aid, *i.e.*, 75 per cent. Now, Sir, it is a great pity to see that an advanced Government like this should try to undo the doings of the select committee, and to decrease the share of their responsibility in spite of the admitted fact that the burden of giving primary education lies more on the shoulders of Government than on local bodies. Even in this amended bill there is no clause by which backward districts like Panch Mahals could ask the Government for a special grant for introducing a measure for educating, enlightening and uplifting the peasantry, on which the material advancement of India depends. Sir, if my memory does not play false, I remember having heard from the Government bench when we were discussing the Entertainments Duty Bill that "no Entertainments Bill, no compulsory education". May I, Sir, be permitted to say with the same enthusiasm and attitude that "no special grant for backward districts, no dream for compulsory education." It seems, Sir, that honourable members representing backward districts have failed to draw the sympathy of Government, for Government have thought fit to treat backward districts in the same line as well-to-do flourishing districts. The last census report shows—of course, I speak subject to correction—that there are 68,790 children in Panch Mahals. The contributions of the local board to educate them all would cost four lakhs of rupees. Now, Sir, I fail to understand as to how we are going to introduce primary education when unfortunately the cess on forest and abkari revenue is refused to us and when other sources of taxation such as water, profession,

[Mr. D. B. Dalal]

etc., are quite immaterial on account of the backwardness of the district. It may be argued, Sir, that there is the land cess. Well, Sir, the condition of the agriculturists of the district is such that, if the cess is increased from one anna to two annas, it will really be heart-rending and killing on them, but supposing even if it were increased, it will bring in an increased revenue of Rs. 40,000 only, while the expense will be four lakhs. The upshot is, that Panch Mahals being a very, very backward and hilly district, where there is famine mostly every third year, where half the land is under forest, could never be able to introduce primary education unless and until Government, like champions of advancement, come to their aid by offering a special grant. With these remarks, I am sorry, I have no other way but to oppose the second reading, for I would not like to be satisfied with the same kind of dry paper bill as the Patel Act of 1918.

Mr. C. C. HULKOTI (Dharwar District): Sir, I rise to oppose the second reading of the bill. Speaking for myself, I believe the bill as it now stands is unworkable and will remain a dead letter. Some of my honourable friends in this House characterised the opposition as an attempt to wreck the bill. It was further suggested that the Government introduced the bill with the best of motives and so any attempt to oppose the bill at this stage would retard the educational advancement of rural areas. Next the honourable member from Bombay put it to the honourable members from the mofussil, "how will you face the electorates, after opposing the bill?" The honourable member from West Khandesh, Rao Bahadur Garud, quoted an adage that "something is better than nothing". I quite agree that these are all nice things to say theoretically. These are not, really speaking, the issues that ought to guide us in determining whether we ought to support or oppose the second reading. The real issue of importance is whether the bill as it now stands is workable in rural areas or, in other words, if I am to be clearer on the point, "Have the local bodies adequate finances to work up the provisions of the bill?" I believe that local bodies have sufficiently taxed themselves and any attempt to further tax the people in the areas concerned would certainly expose them to popular odium, and ultimately bring the institution of local self-government into disrepute. No doubt, as emphasized by the Honourable Ministers of Education and Local Self-government, new powers are given to local bodies, to develop their resources by additional means of taxation. But I may assure the House that the increase of one anna cess to two annas will surely lead to agrarian discontent throughout rural areas. It is still a question to see how far the other taxes proposed in the bill would financially help the local boards. Under the circumstances, I feel no doubt that local bodies will not be able, on account of financial difficulties, to take up the programme of compulsory education scheme adumbrated in the bill. The Government ought to be more liberal in educational grants to local bodies. I repeat, from my experience of my own district, that the local boards will not, even by additional taxation, be in a position to meet the one-third of the additional cost on account of compulsory education.

While congratulating the Government for having made an attempt to take the lead in the matter of compulsory education, I do not think that the bill will be of much use in the matter intended by it.

Mr. IBRAHIM S. HAJI (Bombay City): Sir, after reading the report of the select committee on this Primary Education Bill I thought that I should

[Mr. Ibrahim S. Haji]

congratulate the Honourable Minister in charge of this bill. Having seen this clause 13 as amended in the select committee, namely that the select committee has increased the grant to be made by Government to the extent of three-fourths from two-thirds, I thought that the select committee had done justice to the views which the House expressed at the first reading. I do not remember any honourable member from the rural areas expressed satisfaction at the proposal of Government as regards this Primary Education Bill and said that it would be satisfactory in the rural areas so far as the grant to the local boards and municipalities remained two-thirds, but the select committee have respected the views of the honourable members representing rural areas.

In the local areas if compulsory education is to be a realised hope, it ought to be remembered that no educational bill should pass this House unless it gives the local areas, that is, municipalities and local boards, a sufficient financial aid from Government exchequer. But, Sir, having seen the notice of amendment from the Honourable Minister in charge of Education, I find that Government now stick to their original proposals.

*After recess.*

The Honourable the PRESIDENT: Order, order.

Mr. IBRAHIM S. HAJI: Sir, I was just telling the House how compulsory education will be introduced in this Presidency. Under clause 10 the local authorities will have to make a declaration to Government of their intention to introduce compulsory primary education. Whether it is a local board or a municipality, that declaration of intention to introduce compulsory primary education will entirely depend upon the financial position of the local authority. If this House is earnest, and if Government are earnest, to give compulsory education in the local areas, we must provide in this bill for an adequate financial aid to these local authorities. After all, the intention of the local authorities will depend upon their financial position. Under the bill as it has emerged from the select committee, the local boards will get a grant of three-fourths of the cost and the municipalities one-half. Now the Honourable Minister has proposed an amendment and wants to reduce the financial liability of Government. The Honourable Minister for Education has signed the report of the select committee without a protest, without a minute of dissent, and to this report is appended also the signature of the Director of Public Instruction, another member of Government. The financial position, if the amendment of the Honourable Minister for Education is accepted, will be.....

The Honourable Dr. R. P. PARANJPYE: Mr. President, in order that it might save a little discussion I would just suggest that in the notice of amendments I have given I would like to alter the words "the cost to Government" to "the liability to Government".

The Honourable the PRESIDENT: Have you obtained the sanction of the Governor?

The Honourable Sir IBRAHIM RAHIMTOOLA: He gives only information: he is not moving the amendment at present.

The Honourable Dr. R. P. PARANJPYE: That was the intention of Government.

The Honourable the PRESIDENT: I must be satisfied. If sanction has not been obtained, then it had better be obtained.

The Honourable Mr. M. H. W. HAYWARD: May I point out, Sir, that the intention is clearly there? It is simply to limit the legal liability which

[Mr. M. H. W. Hayward.]

was going to be imposed under the clause, not to limit the power of Government if they wanted to give more.

The Honourable the PRESIDENT: I am not concerned with anybody's intention: I am only concerned with section 80C.

The Honourable Mr. M. H. W. HAYWARD: I will make it quite plain, Sir, that that intention is what has been sanctioned by the Governor. The clause was to be drafted to give effect to that intention, but the draft has turned out not to be in accordance with the sanctioned intention.

Mr. IBRAHIM S. HAJI: Now, having seen the notice of amendment of the Honourable Minister I feel that the enthusiasm of this Council for this bill will be restrained. If the bill is amended as the Honourable Minister desires, it will not be a bill which this House would like to give to the local authorities. The honourable member for Bombay city, Dr. Batliwala, who spoke before me, said that this House should not delay the introduction of compulsory education in the Presidency for a moment and suggested that the honourable members who opposed the second reading of this bill wanted to go against the smooth movement of compulsory education. I beg to submit, Sir, that the members who are opposing the bill and who are going to oppose the bill have no such intention: on the other hand, they are opposing it because they find that the clause as amended by the select committee is not going to form part of the bill. If the bill is amended as desired by the Honourable Minister and if it then becomes an Act, it will be an Act which will remain on the statute book without our hopes being realised. I also submit, Sir, that, if the Honourable Minister is really earnest to have compulsory education as early as possible throughout the Presidency, he must insist upon the proper authority to give him sanction to meet three-fourths of the expenditure of local boards and half of the expenditure of municipalities.

Sir, I also submit that this change against the select committee's report introduces a new and very important constitutional point. The constitutional position is that this House should be the master of moulding the destinies of the people of this Presidency, and this House cannot be ridden over by any person. This Council is the master to introduce the bill and to say which form it shall take, and which shall be the real Act which will give compulsory education to this Presidency. If this House by a majority insists upon having a clause in this bill saying that the cost to be borne by Government should be three-fourths in the case of local boards and one-half in the case of municipalities, and if the Minister is not going to agree to it, I beg to submit, Sir, that the Minister will have to cross the bench and we shall send in a member in his place who will command our confidence, and that confidence shall only be given to that member who can agree to give three-fourths of the cost to the local boards and one-half to the municipalities. With these words I beg to oppose the second reading to the bill.

The Honourable the PRESIDENT: I see now that the same arguments are being repeated and I cannot allow any further repetitions of those argument.

Major-General W. E. JENNINGS: I move a closure, Sir.

The Honourable the PRESIDENT: I cannot accept it. I shall see if any further light can be thrown. But we have had the same arguments in the previous speeches.

Mr. P. N. ADHAV (Satara District): Sir, the bill as presented to us by the select committee and the amendment proposed are not very satisfactory, and it is rather a painful duty that I should oppose the second reading of this bill on the ground that I find that the bill does not fall within practical politics. If you will refer to the local fund returns you will find that about Rs. 23,49,000 was recovered as local fund in the year 1920-21. As has already been pointed out by the select Committee report, in 1920-21 a sum of Rs. 1,25,00,000 was spent on primary education. Out of that, Rs. 67,00,000 was contributed by Government. Taking for granted that what has been estimated is correct, we shall have to make up twice as much amount and provide twice the number of students for enforcing primary education, for which we will require about Rs. 3,75,00,000. If we multiply $67 \times 3$, taking the percentage as at present calculated at 88 per cent., we will require a contribution of two crores and odd from Government, but, as Government is going to reduce this grant by twenty per cent., we will fall short of 40 lakhs. In that case, we shall have to provide more than Rs. 2,15,00,000 or so. Taking for granted the revenue figures as shown in Appendix II, page 42, Revenue Report, if we increase that one anna cess, excluding Sind we get about Rs. 18,00,000. Taking for granted, as the Honourable Minister in charge of Local Self-government said, that we would get 25 or 30 lakhs, even then, we fall short of the amount required for the extension of primary education in the long run. Take, for instance, the Satara district. There we generally spend about three lakhs of rupees every year. The local fund cess is Rs. 1,79,000. If we increase this amount and double it, we will get about three and a half lakhs, but if we want to completely enforce primary education within the course of ten years, we will require about six lakhs. Out of that, excluding Government grant, the district local board of Satara will not be able to raise the amount required and to meet the local demand for education. With these remarks, though the bill appears to have made a noble beginning, it appears that the progress will be very lame and, though it promises a good sowing time, I am afraid the harvest will be very, very poor.

Mr. A. P. CHAUGULE (Belgaum District): Sir, fortunately for us we have in this House non-official members who have been or are at present either on district local boards or on municipalities. Hardly do we find a non-official member in this House who has no experience either of a district local board or a municipality. The amendment seeks to curtail the resources at the boards for the expenses of primary education, so much so that the local boards as well as the municipalities will find it extremely hard to work the provisions of this bill. In spite, Sir, of the united non-official opinion of this House, I say that the Government's persistent effort to curtail the grants is, to my mind at any rate, extremely unjust. The House is prepared to pass generously any money bill. It has passed money bills in the past when Government had made out a case. It is not reluctant to give Government any more money which it may want. But in a case like this, when the whole nation is yearning for compulsory primary education, I submit that Government should not be slow or should not be reluctant to come forward with a generous response to meet the demand. I mean to say that the needs of the people are too many and too great, but nothing can be greater than primary education, which has been the watchword of several of our institutions that have sprung up since the Reforms Scheme came into being. I submit, Sir, that if Government sees its way to stick to the proposals of the select committee, I think every one of us will be quite satisfied, at least prepared to go on and work both the Local Boards Bill and the Primary Education Bill, if they pass into law, cheerfully.

[Mr. A. P. Chaugule]

It is the masses that have been paying the excise duty. The excise duty is spent away in the general administration and we know how. The amount that we earn from excise comes to about 4 crores and odd, and the expenditure on primary education is so little that it is extremely inadequate when we compare it with the figures of the excise revenue. If it is the poor man that contributes most to the excise revenue, it is the poor man who ought to be liberally educated out of that money. The children of these poor people, who have gone astray and wrecked themselves and their families, ought to be liberally treated and it is our duty, the primary duty of this House, to see that the children of the persons who have gone astray ought to be helped in becoming better citizens, so that they may in their after life be good fathers and be of material assistance to the State itself. Education, if widened, is again a source of gain. Less expenditure is required on administration if the country is educated as is amply indicated in civilised countries. So I submit that the proposal of the Honourable Member in charge of this bill appears to me, at any rate, extremely unjust and inadequate. If Government can see their way to withdraw the amendment, I think it will be generally satisfactory to the Council. If, on the other hand, Government finds the suggestion inexpedient, I think then we must oppose the clause. With these words, I conclude by saying that I hope that the Honourable Minister will see his way to withdraw the clause.

Mr. M. W. PRADHAN (Thana District): Mr. President, I have been closely following the debate since last evening and I am reminded of the saying or the expression of one English business man about India when he said that there were two speeds in India. When he mentioned to me these speeds, I thought he was merely jesting and was doing injustice to India and Indian talent. But since last evening, Sir, I am thoroughly convinced that the opinion of that English business man was very near the truth. And what were those two speeds in India? He said "dead slow" and "full stop". These were the two speeds. Dead slow was the progress of elementary education in India. The Council was not satisfied with that speed. But after taking this bill to the stage of the second reading, the Council were enamoured of the other speed—I mean the full stop. If the Council is prepared to be enamoured of that other speed about which that Englishman was talking, when he was talking about Indian speed, I have nothing more to say. But I would appeal to this Council, in the name of the teeming millions, the ignorant millions, of this Presidency, that they would be better advised in not only passing the second reading, but in passing it without a division.

Mr. IBRAHIM S. HAJI (Bombay City): What about the "full speed"?

An Honourable MEMBER: I move the closure.

The Honourable the PRESIDENT: I accept the closure.

The Honourable Dr. R. P. PARANJPYE: Mr. President, we have heard a large number of speeches against this bill and those speeches have centred round one particular clause about the proportion of grants to be made by Government to the local bodies for the introduction of educational expansion and compulsory education. In the first place, Sir, I might mention that in the select committee I represented to the members that the policy of Government was as outlined in the original draft of the bill. I told them at that time to consider and to allow that clause to remain as it was, but the select committee, contrary to my advice, passed that clause. I quite agree, Sir, that I ought to

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have immediately written a minute of dissent for that purpose and I plead guilty to the charge of not having written it. But I had not an earlier opportunity of consulting the whole Government or His Excellency the Governor....

The Honourable the PRESIDENT: The amendment was contrary to the statute and ought not to have been placed in the select committee without His Excellency the Governor's previous sanction as required by section 80C of the Act.

The Honourable Dr. R. P. PARANJPYE: The select committee proposed that amendment and I did not know at that time that it was out of order. At any rate, these were the views of the select committee and they were embodied in the bill as amended by the select committee.

The Honourable the PRESIDENT: Section 80C prescribes a condition and practice similar to that prevailing in the House of Commons, as to which it has been ruled by the Chair there:—

"In a committee we cannot go any further than the authority given on the recommendation of the Crown. It is one of the protections of the taxpayer."

The reason of the rule is stated by Redligh:—

"The principle is dictated by the recognition of a serious danger, namely, the prevention of extravagance on the part of a large assembly. State expenditure ought to be the expenditure of the responsible administration and it is the duty of the Crown to ask for money as it is the duty of the House to find it,—not more."

The Honourable Dr. R. P. PARANJPYE: Not being a practised or even any kind of lawyer, Sir,.....

The Honourable the PRESIDENT: It is not a question of law, but of common sense.

The Honourable Dr. R. P. PARANJPYE: I forgot, Sir, at that time that it was out of order, and all this trouble has been caused by my remissness on that point.

The Honourable the PRESIDENT: The principle goes further. The Speaker has ruled in 1911:—

"The Chancellor of the Exchequer having informed me that this does increase the charge, I can't allow it. I am bound to accept the view of the Chancellor of the Exchequer." (Parliamentary Debates, Official Proceedings, 5th Series, 1911, Vol. 32, Col. 457.)

In 1908 he had ruled:—

"If the Chancellor of the Exchequer tells me and the House that the scheme proposed is a charge on public revenues, I am bound to accept that statement." (Parliamentary Debates, Official Proceedings, 4th Series, Vol. 191, Col. 1512.)

I shall follow those rulings here if the matter is not clear and is arguable on a point of order.

The Honourable Dr. R. P. PARANJPYE: That makes the matter quite clear, Sir, to the House and I hope that a great number of the objections raised by honourable members will disappear and that they will support the second reading in response to the conditions of the case. But I might mention that the proposal as originally drafted in the bill was for neither more nor less than that which was suggested by the special committee that we appointed to consider this whole question. That special committee, on which in passing I may remark that the honourable member from Sukkur was also a member, recommended that the grants to municipalities should be one-half and the grants to the local boards should be two-thirds. And contrary to the ordinary practice of legislation in this Presidency, and I believe in general, we not only

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accepted that suggestion of the select committee as an administrative measure, but have embodied that clause in the actual bill before us. It is only in very rare instances, Sir, that a legal financial liability has been undertaken by Government by means of sections of a statute, and in order to allay the fears of the public and of this Council that the Government might later on come and say that they will not give any money we have put this legal liability on Government, and the Compulsory Education Committee and Government understand that legal liability does not mean the maximum liability. It means the minimum liability below which Government cannot go. The Compulsory Education Committee have said, and Government quite agree with it, that in certain cases in the case of very poor districts, it may be necessary to increase the scale of grant, and Government accept that position. In the case of very poor districts with a very large population but very small income, especially from local fund cess, they will not be able to meet all the liability, the one-third liability. But there are a large number of districts which can meet this liability. I will mention a few figures to the members of this Council which will make my point perfectly clear. I assume, in these figures, that by our extended programme, the number of new children that we shall bring into our schools will be approximately the same as we have at present at the end, at any rate, of six or seven years. I do not expect that our programme will do more than double the number of children in six or seven years. I look ahead as far as six or seven years, which is quite a long time to look forward to. Take, for instance, a district like Satara which my honourable friend Mr. Adhav mentioned. There are 22,114 children at school. Supposing we want to have an equal number of children once for all, the cost at Rs. 17 per head, which is the cost mentioned by the Compulsory Education Committee and which I accept as being suitable in the case of local board schools, the extra cost of educating these additional children, numbering twenty-two thousand and odd, would be Rs. 5,45,922. Out of this the contribution of one-third by the local board, as was contemplated in the original draft of the bill, would be Rs. 1,81,974. Now, in this case the receipt to the local board from the additional anna cess would be Rs. 1,81,269—just barely sufficient. I therefore understand that the Satara district could be on the border line. If they were to expend the whole income from the additional anna cess on education purposes, the Satara district will just be able to meet its liability.

Rao Bahadur R. R. KALE : For boys ?

The Honourable Dr. R. P. PARANJPYE : For doubling the number of children. On the other hand, there is a large number of districts which are in a far better position than this. Take, for instance, a district like West Khandesh. There are at present there 15,092 children at school. To double that number we require an additional cost of Rs. 2,56,068. One-third of this, which would be the cost that will have to be borne by the local board, will be Rs. 85,561, and the receipts from the one anna cess would be Rs. 1,56,000 and odd. Consequently, it is far less than two-thirds of this additional one anna cess.

Rao Bahadur G. K. CHITALE : What are the figures for Ahmednagar ?

The Honourable Dr. R. P. PARANJPYE : I admit that in the case of Ahmednagar, it would require additional help from Government. But seeing that in all districts a higher proportion is not required, and that you can meet, in the case of some districts, probably much more than half of all the districts,

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by means of the present rate as mentioned in the bill, does the Council want the Government to be needlessly generous to those districts which can do without a higher proportion of grant? The bill as drafted will not take away from Government the option of giving more if the need is shown. That does not mean that Government should necessarily, without asking the local boards to do what they possibly can, give more than what is wanted. I see the honourable member Mr. Gandhi is shaking his head. I would point out to him that in the case of Surat the figures of extra cost work out at Rs. 1,60,000 and the income from the anna cess at Rs. 1,71,000.

Mr. C. M. GANDHI: There are fresh liabilities on the local boards.

The Honourable Dr. R. P. PARANJPYE: My honourable friend the Minister for Local Self-government has told you that the Local Boards Act has not laid any new liability, but on the other hand has increased the resources that have been placed at the disposal of the local boards. No account whatsoever is taken of those resources. I have shown you that in many districts two-thirds of the anna cess would be sufficient to meet the extra cost. In most districts, if the whole is devoted to education, all these liabilities can be certainly met. Only in cases where this liability cannot be met will Government consider the question of increasing the proportion of their contribution. It is not right for this Council to treat the revenues of this Presidency in an irresponsible manner and lay down a uniform rule for all district local boards, whether the money is wanted or not. I believe I have been able to satisfy the Council on this point. The minimum will have to be accepted, and the minimum necessarily implies that a certain extra amount may be given in case of absolute necessity. "The Government shall contribute" means, that that much must be given; it does not mean that Government shall not contribute more than that. I am not a lawyer, but I believe that is the interpretation that my honourable friend would put if he were asked to argue the case in a court of law.

A large number of members here talked about the reduction of grants. It has been mentioned over and over again that we contemplate no reduction whatever in the actual amounts of grants paid to the local bodies. What is being done is a reduction in the percentage of grants on the additional expenditure, which is a far different thing, and I hope that the legal members who are at present in this House will not confuse the issues in this matter. It seems that they are not satisfied with the assurance that I gave to them. That assurance has been made clear not only in my speech, but in the words of the clause, namely that the claims of the local boards to receive the grants which they at present get are not affected by the first clause in the bill. I do not think anything more is required to make that position clearer. The percentages on the new expenditure have been guaranteed to them by statute, and, so far as I know, that is a liability which can be enforced in a court of law.

I have mentioned to you by means of figures that this proportion of grants would be quite sufficient to carry out the programme at least for the next six or seven years. Even the whole programme chalked out by the Compulsory Education Committee would probably be carried out, without any extra grant, in the case of a certain number of districts. In the case of others, possibly, a little more help would be required. However, we must also remember that the resources of the local boards are likely to improve sooner or later, and we need

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not anticipate that the resources of local boards will be always so meagre as they are at present. In fact, the Local Boards Bill was pushed on along with this bill, in order to put into the hands of the local boards additional resources; otherwise, the Local Boards Bill might have waited for some time without doing any great damage. The main difficulty will arise not in carrying out the programme chalked out by the Compulsory Education Committee, because that programme applies mainly to boys, and to a certain extent only in the case of girls. The main difficulty might arise when we want to extend the policy to the same extent in the case of girls, as it is proposed to extend it in the case of boys. Now, of course, I am a very keen advocate of girls' education, and I hope that the local boards also will devote as much attention to the education of girls as they would to the education of boys. Still, I have got to face facts as they are. I do not think that the local boards will, as a matter of fact, devote the same attention to the education of girls as they would do to that of boys. The difficulty would arise after ten years, when Government would possibly take further measures to apply compulsion in the case of girls also. The Compulsory Education Committee does not contemplate compulsion in the case of girls to a very large extent, except in the case of municipalities. The difficulty would arise then; but I do not think that the Council would be well advised in throwing out a measure which meets all the necessities of the case for the next six or seven years.

I ask the honourable members of this Council whether it is advisable to persist in an attitude of mere opposition, simply because Government have not been able to fulfil their complete wishes. The Director of Labour Bureau has told you that even in England the Government liability for contribution is only 62 per cent. In this Presidency, taking municipalities and local boards, the Government contribution at present comes to 88 per cent. of the cost. A good deal has been said about the municipalities. The frame-work of the bill contemplates that most of the municipalities should come within the local boards and then automatically their grants will increase, because Government understand that smaller municipalities cannot bear half the cost of education. We propose that they should come under the school boards of the district, and subsequently their share will increase automatically.

My honourable friend from Sukkur (Mr. B. G Pahalajani) said "We do not mind whether this bill passes or fails". He appealed to members from Gujarat and said that they are already having education; he and perhaps they do not mind whether this bill passes or fails. The bill is not intended for people who are having education; this is intended for the vast masses of the people who are going without it. It is for the Government to realise the responsibility for the masses. This bill would go a great way to satisfy the present demand. What I say is that the present bill is sufficient for the next few years; and the Councils that will come afterwards would look to the period after that: if they have more money, they will ask the Government to give increased grants to local bodies, or to give increased resources to them. Now the Government expect you to tax yourself to the highest limit. After you have done your best, then come to Government and say you cannot do anything more. That would be the proper time for Government to take measures.

The speed "dead stop" as said by the honourable member for Thana (Mr. M. W. Pradhan), should not be the proper speed for the honourable members of this House. We are embarking upon a policy of compulsory

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education, and it requires a fair amount of sympathy and acquiescence from among the people. They should show their enthusiasm for compulsory primary education by showing their readiness to tax themselves more. If people shout for compulsory education and are not prepared for increased taxation, then what is the meaning of the cry for compulsory education ? Their readiness for primary education should be proved by their readiness to tax themselves. Government of the future—I may not be in this place then, perhaps—will carry out any further measures necessary after six or seven years. The Council of those days will compel their Minister to go on with their further scheme.

There is one other point raised by my honourable friend for Satara (Rao Bahadur R. R. Kale) that there is no mention of the ten-year programme. The Director of Public Instruction has already told you that Government have an open mind on the question. The honourable member for Satara wants to amend the preamble to that effect; and if the honourable members want it Government have no objection; but we must consider the legal liability it imposes on Government. If the Government is unable to carry out the programme within the specified period, it cannot impose penalties upon itself. That is a clear proposition. The legal mind can quibble about the question whether a Government can impose a legal liability upon itself for the future. If the Government of India imposes a legal liability, it is then a real liability, because it is a superior body. Again, if the liability is imposed by some section of this Act on local bodies to carry out a ten-year programme, by implication it is obvious that it is a liability on Government. So, I hope there will not be any objection on the part of the members on the ground that there is no provision for the ten-year programme. But ordinarily any Government would carry out the declared policy of its predecessor unless it wants to change it deliberately.

I think, Sir, that the honourable members of this House have been led by small considerations to oppose the whole thing, but I would appeal to them on wider grounds. This bill goes certainly a great deal more than what we have been told, namely that it does not go very much further than the Patel Act and that this is but another edition of the Patel Act. I might assure this Council that this bill goes far more than that Act. We have simultaneously introduced in this Council bills giving power of introducing compulsion, giving local bodies sources for having more income for their local needs and local affairs, and finally a further measure of taxation in order to give Government a new source of revenue. Does the Council think that this introduction of these three measures simultaneously is not a substantial advance or that it is a mere pretence ? I think no proof would be clearer than the simultaneous introduction of these three bills. They form the component parts of one whole policy. That policy Government is committed to carry out. It is for the Council to see that it is carried out; and if the Council opposes this bill, the whole building that is proposed to be raised will be stopped at its foundation. I ask this Council not to be led by sentiment. One cannot have everything that one wants. As I have often said and say again now, one has got to see whether the direction in which one is proceeding is the right direction or wrong. If you are really convinced that we are going backwards and that the bill is really a retrograde measure, as some members have said in the heat of the moment, then by all means throw that out. But if you feel that it is really a step forward in the direction of wider education, designed for making the masses more fitted to carry on their life's work better than they have been doing at present,

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I hope every honourable member of this Council will vote for the second reading of this bill.

Bill read a second time. Question put. House divided. Ayes, 51. Noes, 9. Motion carried.

*Division No. 6.*

**Ayes.**

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BHUTTO, Khan Bahadur S. N.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
CADELL, Mr. P. R.
CLAYTON, Mr. F.
COCKE, Mr. H. G.
COOPER, Khan Bahadur D. B.
DABHOLKAR, Mr. V. A.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DWARKADAS, Mr. KANJI
GARUD, Rao Bahadur S. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HATCH, Mr. G. W.
HAYWARD, The Hon'ble Mr. M. H. W.
HEPPER, Sir LAWLESS
HOOD, Mr. A. J. F.
JADHAV, Mr. B. V.
JENNINGS, Major General W. E.
KAMBLI, Mr. S. T.
LALBHAI AMBARAM, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LIGADE, Mr. S. P.
LORY, Mr. F. B. P.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MOHOMED SALAHUDDIN K., Mr.
MOTIRAM, Rao Saheb RUPCHAND
MURPHY, Mr. S. J.
MUTALIK, Sardar V. N.
PARANJPYE, The Hon'ble Dr. R. P
PATEL, Mr. B. P.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SALGAR, Mr. R. G.
SETALVAD, The Hon'ble Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY
SURVE, Mr. A. N.
THAKOR of AMOD, Sardar NAHARSINGHJI
THOMAS, Mr. G. A.
WOODS, Mr. E. E.

*Tellers for the Ayes :* Mr. F. B. P. LORY and Mr. G. C. BHATE.

**Noes.**

CHAUGULE, Mr. ANNAPPA PHADEPPA
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
HAJI, Mr. IBRAHIM S.
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA
KALBHOR, Mr. G. M.
NIMBALKAR, Mr. K. B.
PAHALAJANI, Mr. B. G.
TRIVEDI, Mr. G. B.

*Tellers for the Noes :* Mr. B. G. PAHALAJANI and Mr. D. B. DALAL.

*Bill read clause by clause.*

Clause 2 (*Definitions*).

In this Act unless there is anything repugnant in the subject or context—

"Approved school" means a school or part of a school in which instruction in elementary education is given and which is for the time being approved by the school board or by the Government on appeal from a decision of the school board refusing approval ;

"area of compulsion" means the area in which elementary education is compulsory ;

to "attend" an approved school means to be present for instruction at such school on such days and at such time and for such periods on each day as may be required by the school board with the approval of the Government ;

"child" means a child whose age at the beginning of the school year is not less than six and not more than eleven years ;

"elementary education" means the education from time to time imparted in infant classes and vernacular standards I to IV inclusive as prescribed or sanctioned under section 17 ;

"local authority" means a district local board or a municipality which is authorised by the Government to manage its own schools and includes in the case of Aden, the Executive Committee of Aden ;

"parent" includes a guardian and any person who has the actual custody of a child ;

"prescribed" means prescribed by rules made by the Government for the purposes of this Act.

The Honourable the PRESIDENT: Now I put clause 2. Who is going to move the amendment of which notice has been given by Rao Saheb Harilal Desai?

Mr. C. M. GANDHI (Surat City): Sir, I beg to move Rao Saheb Harilal Desai's amendment:

"That in clause 2, line 3, in the definition of 'approved school' add after the words 'or by' the words 'the local authority or by'."

I think, Sir, that the local authority being the authority supervising the actions of the school board, they should also have the power to approve schools in the district.

The Honourable Dr. R. P. PARANJPYE: Mr. President, I think it is quite against the spirit of the policy that is intended by having a school board for all expert educational purposes. We are asking the local authority to appoint a school board and to leave purely educational matters in the hands of the school board. If we leave the power of approval of schools to the local authority, the matter will be judged by the local authority not from an educational point of view, but from some other point of view. It is on this principle that we have said that the school board shall have the power to approve schools, but, if the school board refuses approval to any school, an appeal will lie to the Government. I do not think that the local authority is the proper authority for approving schools. I think, therefore, that the Council should not accept the amendment.

Amendment negatived.

Mr. B. G. PAHALAJANI (Western Sind): Sir, I beg to move:

"That in clause 2, line 9, the word 'six' be left out, to insert instead the word 'five'."

I move this amendment in consequence of the report of the Compulsory Education Committee. This question was fully discussed by that committee, and nearly all members agreed that the age should be from five to ten. It was found that, if the limit was five and ten, the average age for compulsion would be five and a half and ten and a half. In the report, at page 15 it is stated:

"It is obviously undesirable that children should be joining a school for the first time at all times of the year, as it is impossible for a master to teach satisfactorily a class of children all of whom are in different stages of progress. In the villages, at any rate, it will be more convenient to fix the beginning of the school year rather than the term. This will result in the compulsory limits being on the average five and a half and ten and a half years."

Finally,

"We recommend that attendance at a primary school be compulsory for a child from the beginning of the school year immediately following the day on which he completes five years of age, and that he should remain at school for five years, *i.e.*, until the end of the school year during which he completes ten years of age."

So, Sir, after considering all the evidence before them the Committee had come to the conclusion that the school-going age should be completion of five at the time of entry into the school, which will bring the average age to five and a half. Under the bill as now proposed the age will be six and a half. The age for passing the matriculation has been fixed at 16, but, if our children go to school at six and a half years, they will not be able to pass the matriculation at 16 which many of our boys do at present. Therefore, the time limit proposed by the Compulsory Education Committee was a reasonable one, and there was no reason for the Minister to depart from that.

Sardar Khan Bahadur A. M. DALAL (Broach District): Sir, I oppose the amendment, and I submit that five is too tender an age for our Indian

[Sardar Khan Bahadur A. M. Dalal]

children. As we all know, at that age our children in some cases are not able even to articulate properly and to understand sentences. That is the time for them to play, and we ought to give them full scope for the development of their body. Therefore, I think six years is the proper age.

Mr. G. B. TRIVEDI (Thana District): Mr. President, I rise to support the amendment. I have taken some pains to find out how this compulsory education works in my own city of Bandra. It is one of the municipalities which have already introduced primary compulsory education under the old Act and I was particularly anxious to find out how it worked amongst the poor people. Now, Sir, there are fishermen, *i.e.*, lower classes, in Bandra. The fishermen boys and girls assist their elders in their profession and I made enquiry as to what was the attendance and how it was working, and I find, Sir, that there is a tendency of taking away the girls as soon as they are able to assist their mothers in the household duties. I learn that generally it is at the age of ten that girls are withdrawn from school. So, from that point of view, it would be better if we can reduce the age and begin it from five, so that girls would be able to complete their studies in primary education by ten years.

Secondly, it is said that in rural areas and amongst the poorer classes, the boys are of help to their parents. They do half the work of their parents. Is it not then right that they should begin at an early age such education, so that the guardians shall not have the temptation of taking them away at the age of eleven? If we can reduce the age of school-going in that way, then there will be an inducement to parents and we can induce the parents that if the boy can only be of use to them at the age of 9, why not let him continue there one year more, but if we increase it to eleven, then there will be that hardship, so that it is a matter of expediency that the ages should be 5 to 10.

Mr. A. N. SURVE (Bombay City, North): Sir, the amendment proposed has one advantage that it will take a child out of the operation of this Act one year earlier, but as against this advantage, there are several disadvantages. The first is that education received in the eleventh year will be more lasting than education received in the tenth year. For that reason it is not advisable that the age limit should be brought down.

Again, the backward and depressed classes never send their children to school in their infancy as the higher castes do. Therefore, in their case it will actually be a hardship.

Then, the third point is that, if a child completes the course of primary education by the tenth year, by the terms of this bill, that child goes out of the operation of this Act in spite of its not having completed the eleventh year.

For these reasons I submit that it is not advisable to lower the limit laid down in this bill. Therefore, I oppose this amendment.

Mr. S. T. KAMBLI (Dharwar District): Sir, I rise to support the amendment. In the case of girls, we must take note of the customs of the people. As a rule, people of this Presidency are averse to keeping their girls for a longer time than is absolutely necessary at school and I think most people would be unwilling to keep their girls by way of compulsion at school. Therefore, taking this aspect of the question into consideration, I think it would be better to accept the amendment.

Mr. C. M. GANDHI (Surat City): I move that the question be put.

The Honourable the PRESIDENT : I accept the closure.

Mr. B. G. PAHALAJANI (Western Sind) : When, Sir, the Compulsory Education Committee went into this question, they took into consideration that Mahomedan girls also would come within this definition. The Honourable Minister in charge of this bill does not seem to take into account that many of the Mahomedan girls after ten—almost all—and many of the Hindu girls of purdah classes are not allowed to leave their homes after ten. Eleven is a period which verges between childhood and womanhood, and therefore eleven is the prohibitive age at which girls are not allowed to go out. To retain, therefore, this definition which works disadvantageously to the girls of some of the classes and in some cases also to boys, I think, is a matter for the consideration and acceptance of the Honourable Minister in charge. I, therefore, submit that he would do well, by accepting this amendment, if he respects the opinion of the committee which took evidence from Mahomedans also, so that the matter may be agreeable to all classes of people.

The Honourable Dr. R. P. PARANJPYE : Mr. President, this question was carefully considered in the select committee and the select committee came to the conclusion by a majority that the ages should be 6 and 11. With regard to the arguments of my honourable friend from Sukkur, wherein he told us about the length of the course of primary education and the length of the course of English education and so on, I would point out to him that the children whom we seek to bring under compulsion are not children who are likely to go up to matriculation and that children who are likely to prosecute their studies beyond the primary course are already receiving education.

Then, Sir, the clause does not prevent children from going to school at an earlier age ; that is left to the voluntary decision of the parents of the children, but when compulsion is to be exercised, it is believed that asking children of five years of age compulsorily to go to a school would be rather harsh. Remember that in villages children have to walk a mile or so before they can reach school premises and possibly in many cases twice a day. I know that some children can walk four miles a day, but still why should we compel all children to walk possibly four miles a day to attend a school under the Compulsory Act ? It will be a great hardship on them ; it will affect the health of the children. After all, the happiest time in a child's life is before it has any anxieties and cares, and before it has the worry of having to go to school. I further believe myself that the amount of education a child will get from 6 to 11 would be certainly far more than the amount of education that it will get from 5 to 10. I am, therefore, inclined on these grounds to oppose the amendment proposed by my honourable friend from Sukkur.

Question put

that the word "six" in line 9 of clause 2 (definition of "child") do stand part of the clause.

and carried.

Amendment negatived.

The Honourable the PRESIDENT : The next amendment of Mr. Pahalajani is consequential and therefore falls. Before we go to Rao Bahadur Kale's amendment, I notice that there is in clause 3 an amendment to add the word "beginning" and I see that the select committee has there used the words "depressed classes". What do these words "depressed classes" precisely mean ? When you put them in an enactment (I do not know that they have found expression in any legal enactment) there must be a precise definition, otherwise we shall be creating confusion. What is the meaning of the words "depressed classes" ?

The Honourable Dr. R. P. PARANJPYE : A similar clause has already been passed in the Local Boards Bill.

Rao Bahadur R. R. KALE : I believe, Sir, if we define them as " in the opinion of Government," it would be all right.

The Honourable Dr. R. P. PARANJPYE : I have no objection to accept that definition of the words " depressed and backward classes".

The Honourable the PRESIDENT : Perhaps the honourable member Mr. Surve will word his amendment accordingly. I should not allow amendments with possibly vague words, to be put.

Mr. C. M. GANDHI : The difficulty will arise when school boards which have to include representatives of minorities and of depressed classes proceed to make their selection, unless Government in some way or other define that expression and say just what they mean.

The Honourable the PRESIDENT : They are going to do that.

Rao Bahadur R. R. KALE (Satara District) : Sir, the amendment I wish to move is as follows :

" In clause 2, in definitions, after the word ' Government ' in the definition of ' prescribed ' and before the word ' for ' insert the following words :—

' and regulations made by the local authority'. "

The reason for this amendment is that in the original bill as it stood, clause 27 only enabled Government to make rules and regulations, but when the matter went to the select committee, local authorities have also been authorised to make regulations. A reference to clause 27 will show that sub-clause (3).....

The Honourable the PRESIDENT : You mean that some other clauses empower a local authority to make rules, whereas here it is provided that if the word " prescribed " is used by itself, then it may mean " rules prescribed by Government. " In clause 27 the wording is " rules made by Government or local authority ."

Rao Bahadur R. R. KALE : My point was that originally the rule-making power was with Government. Whatever rules were to be made were to be made by Government. But when the matter went to the select committee, it was decided to give this power both to Government and also to the local authorities. You will find it in clause 27, sub-clause (*c*), which reads :

" The local authority may from time to time with the sanction of Government make regulations not inconsistent with the provision of this Act " and so on.

The Honourable the PRESIDENT : Then, perhaps instead of adding the words as the honourable Rao Bahadur suggests, would it not be better to say " rules made by the Government or with the sanction of the Government for the purposes of this Act. " Is there any objection to that ?

The Honourable Dr. R. P. PARANJPYE : My only difficulty, Sir, is that the rules to be made by the local authorities are on points of comparatively minor description and which would vary from local board to local board. The rules to be made by Government are to be uniform, and the rules to be made by local boards will vary from place to place, and it would be difficult, if a case were to come before the courts, to consider each of these separately. The rules made by Government will be one uniform set of rules. Therefore, if we say " prescribed " means " prescribed by rules made by the Government and with the sanction of the Government, " there will be difficulty.

The Honourable the PRESIDENT : Do the powers of Government and of the local authorities overlap one another ?

The Honourable Dr. R. P. PARANJPYE : No, no.

The Honourable the PRESIDENT : I see the local authorities are to make rules not inconsistent with this Act. But do they overlap each other ? Can Government *suo moto*.....

The Honourable Sir IBRAHIM RAHIMTOOLA : May I ask the honourable mover of the amendment whether the word " prescribed " occurs in any clause where it would give rise to any doubt ?

Rao Bahadur R. R. KALE : Yes, Sir. In clause 17 you will find the word " prescribed ".

The Honourable Sir IBRAHIM RAHIMTOOLA : " Prescribed " means prescribed by Government alone. So any further amendment is not necessary. The word " prescribed " is used in the old section also and it has the same meaning.

The Honourable Sir CHIMANLAL SETALVAD : The expression " prescribed " throughout the bill has not been used with reference to any rules to be made by the local authorities. It has been used only with reference to the rules to be made by Government. Therefore, in this definition it is sufficient really to say " prescribed " means " prescribed by rules made by the Government."

The Honourable the PRESIDENT : If the word " prescribed " there means " prescribed by rules made by the Government, " here in clause 17 the word " prescribed " comes in, and in another clause it is said " the local authority may prescribe rules with the sanction of Government."

The Honourable Sir CHIMANLAL SETALVAD : If you will read clause 17, you will see that it says that the subjects, curricula, books, etc., shall be as prescribed. There it means, and it is intended to mean, prescribed by Government. Throughout the reference is only to Government.

The Honourable the PRESIDENT : I think then the honourable member's amendment is unnecessary ; and I rule it out.

Clause ordered to stand part of the bill.

Clause 3 (*Constitution of school board*).

(1) For every local authority there shall be a school board. The school board shall be constituted as prescribed and shall consist of not less than seven and not more than nine elected members, if the local authority is a municipality, and not less than nine and not more than sixteen elected members if the local authority is a district local board. The members shall be elected by the local authority and shall so far as may be, include persons experienced in education, women, representatives of minorities, and depressed classes, and, if the local authority is a district local board, representatives of municipalities in the district which are not local authorities. Such members shall not necessarily be members of the local authority.

(2) The Government may appoint not more than three additional members if the local authority is a municipality and not more than four if the local authority is a district local board.

Mr. A. N. SURVE (Bombay City, North) : Mr President, the amendment which I propose is as follows :

" In clause 3 (1), line 6, insert a comma and the word ' backward ' after the word ' minorities '. "

Sir, my object in proposing this amendment is to give representation to the backward classes in the schools committee. The backward classes are in the same boat as the minorities and the depressed classes. They are neither rich nor assertive, and as a consequence they always remain in the background. I might cite the case of Ratnagiri district as an instance. In the Ratnagiri

[Mr. A. N. Surve]

district, in the taluka local boards, not a single member from my community had ever been elected, and until the time that the honourable member, Mr. Cadell, became the Commissioner of the Southern Division, and nominated a few members from my community no one ever entered the taluka local boards. Even now there is not a single member on the district local board. That will show the hardship that these backward classes are suffering from. As they are very poor and very shy, they do not seek representation by election. Therefore, in order to enable these classes to come into the schools committee, I think it is necessary that they should be given representation along with the minorities and depressed classes.

Mr. C. M. GANDHI : May I point out, Sir, that the honourable member for Bombay has not taken up your suggestion ?

The Honourable the PRESIDENT : That will come later on. I have a note of it here ; it ought to be added as an explanation at the end of the clause.

The Honourable Dr. R. P. PARANJPYE : Mr. President, the wording of the clause is quite general. If the backward communities are minorities, they are included. He wants backward minorities only. His amendment is that advanced minorities would, in no case, be allowed to enter. I do not know whether that is his intention. Occasionally, however, such a case might occur. Take, for instance, the Christian minority.

The Honourable the PRESIDENT : Whether you have a majority or minority they are entitled to representation.

The Honourable Dr. R. P. PARANJPYE : That is not brought out by the honourable member's amendment.

The Honourable the PRESIDENT : He says ' where they have failed to obtain representation or have not sought it. ' Backward majorities are also included. ' Minorities, backward and depressed classes. ' So, the backward classes whether in a majority or minority are to be brought in.

The Honourable Dr. R. P. PARANJPYE : I have no objection to accepting the backward along with the depressed, if they do not get any representation.

Mr. S. K. BOLE (Bombay City, North) : Sir, I fully associate myself with the remarks made by.....

The Honourable the PRESIDENT : The amendment is accepted by Government. If there is nobody to oppose it, I will put it. The amendment is :

" In line 6, add a comma and the words ' backward classes ', after the word ' minorities '. "

Mr. C. M. GANDHI (Surat City) : Sir, I wanted to speak, because in legislation commas are not taken into consideration. It is a rule of interpretation that punctuations are not to be taken into consideration.

The Honourable the PRESIDENT : Who says that ?

Mr. C. M. GANDHI : I have read it somewhere that in the interpretation of.....

The Honourable the PRESIDENT : It is a practice in conveyancing, but I doubt if legislation follows the conveyancers' practice. That is for the Council to decide.

Mr. C. M. GANDHI : It will be this way : representatives of minorties, backward classes, and depressed classes.

Amendment carried.

Mr. A. N. SURVE (Bombay City, North): Mr. President, I now propose my next amendment, which is as follows:

"In line 6, after the word 'classes' insert a comma and the following words:

'where they have failed to obtain representation or have not sought it'."

I have already stated that these classes generally never seek representation, and whenever they do stand for election, they are defeated. Therefore, it becomes necessary that these words should be added, and they should be given representation even though they may not have sought it.

The Honourable the PRESIDENT: I think this amendment is unnecessary.

The Honourable Dr. R. P. PARANJPYE: I move, Sir:

"At the end of sub-clause (1), clause 3, add:

'Explanation: Backward and depressed classes shall mean classes so declared by the Government.'"

Amendment carried.

Rao Saheb D. P. DESAI (Kaira District): The amendment I wish to move runs thus:

"Add the following at the end of sub-clause (2), clause 3, as sub-clauses (3) and (4):

'(3) The term of the school board shall be co-extensive with the term of the local authority; and at the end of such term the members of the school board shall vacate office, provided that they shall continue in office, till a new school board is appointed.

(4) Casual vacancies during the term of the school board shall be filled by election or nomination as the case may be for the remaining period."

The Honourable Dr. R. P. PARANJPYE: I accept the amendment.

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 4 (*Powers and duties of school boards. Commencement*).

(1) From such date as the Government may direct in this behalf in respect of each school board, and subject to the general control of the local authority to such extent as may be prescribed, the school board shall exercise and perform such powers and duties as may be enacted in or prescribed under this Act.

(2) The school board shall exercise the powers and perform the duties of the local authority for which it is constituted in respect of primary education and if the local authority is a district local board, it shall also exercise the like powers and perform the like duties of the municipalities in the district which are not local authorities. The school board shall also enforce the provisions of this Act.

(3) The school board shall submit its annual budget and all alterations therein for the sanction of the local authority.

(4) The school board shall further exercise such powers and perform such duties in respect of any educational purpose as may be delegated to it by the local authority or any such municipality as aforesaid.

(5) The school board shall elect its chairman from amongst the members of the board.

Mr. C. M. GANDHI (Surat City): Sir, I move:

"That in clause 4 (1), lines 2 and 3 delete 'to such extent as may be prescribed'."

The reason for this is that it was agreed that the school board should be left to itself subject to the general control of the local authority. I do not think it is right that Government should again come in to prescribe the extent of authority that the local authority shall exercise over the school board. It ought to be left free to manage a body subordinate to it. I think the Honourable Minister will agree that too much official interference in such matters is never welcome. I, therefore, hope that the Council will accept the amendment.

The Honourable Dr. R. P. PARANJPYE: Sir, those words have been put in there by the select committee, in order to specify what those general powers are. These general powers will be prescribed by Government. Supposing that the local authority makes rules which are not practicable, then the

[Dr. R. P. Paranjpye]

school board will be subject to an impossible state of things. Therefore, we want that the school board should be able to exercise its functions subject to general control by the local authority. It is for that purpose those words have been put in.

Rao Bahadur R. R. KALE (Satara District): Sir, these words which were sought to be introduced into this clause were never brought to the notice of the select committee when this clause was proposed to be inserted, and it seems to me it is rather taking away or putting restrictions on the powers of the school board. I, therefore, support this amendment and oppose the insertion of these words into this clause.

Mr. C. M. GANDHI: Sir, I expressed my surprise when I found these words inserted in the bill as amended in the select committee. I am positive that this question was discussed in the select committee.

Mr. B. G. PAHALAJANI (Western Sind): Sir, all that was agreed to by the select committee was that the school boards shall be subject to the general control of the district local boards. But the clause as it appears in print adds a further provision that the control will be prescribed by rules laid down by Government. I entirely agree with my honourable friend from Surat that, so far as members of the select committee are concerned, these added words are a mistake. I, as one of the members of that committee, can assure this Council that these words were not there. They were put in by mistake, and that mistake ought to be remedied now.

The Honourable Dr. R. P. PARANJPYE: Sir, I think the minutes of the select committee will confirm my point of view. I did not put in these words, but the amendment is as drafted by the Remembrancer of Legal Affairs and it was accepted.

Mr. C. M. GANDHI: Sir, I hope the Honourable Minister will bear in mind that as he was in a hurry he asked us to allow him to append our signatures to the draft subject to our minutes of dissent, if any, but the record of proceedings will bear me out that it was I who moved that amendment "subject to the general control of local boards". Then this clause was added by way of definite drafting, but, so far as I know, I find that these words have found their way there.....

The Honourable Dr. R. P. PARANJPYE: The minutes show that the clause was ordered to be redrafted so as to give controlling power to the local authorities.

Mr. C. M. GANDHI: My amendment, "subject to general control" is also there.

The Honourable the PRESIDENT: The report of the select committee has been signed by a majority of the members.

Mr. B. G. PAHALAJANI: The papers were not printed. Everything was reserved. Then the Honourable Minister in charge asked us whether it would suit us if the report is sent to us for our signatures and that, if we did not agree, we might submit minutes of dissent. So we authorised him to sign the report.

The Honourable Dr. R. P. PARANJPYE: The select committee's report says that the clause was to be redrafted. This is a new clause altogether.

(*b*) the balance of the revenue described in clauses (*b*), (*c*), (*e*), (*g*), (*h*), (*i*), (*j*) and (*k*) of section 75 accruing in the areas subject to the authority of such taluka local board, after the district local board shall have made provision therefrom for the portion to be devoted to educational purposes under section 80 and for such share of the charges payable by the district local board under sections 78 and 81 as the said board shall deem equitable;

(2) The remaining portion of the fund shall be available for expenditure by or under the direction of the district local board for the purposes of this Act.

Mr. G. C. BHATE (Kolaba District): Sir, what I want the Council to understand is that the district local boards and the taluka local boards should be separate in the handling of their revenue as they were under the old Act. Under the old Act (section 45) certain revenues are practically the revenues of the taluka board. That section says that the revenues derived from (*e*) and (*f*) of section 44 were of the taluka boards and also the revenue derived from Cattle-Trespass Act, and also all sums accruing to Government with all other sums placed to the credit of the fund by the Government and contributions by private persons and all sums described in clause (*h*) of the last preceding section. All these items of revenues were of the taluka boards and by clause 5 of section 45 contributions from the land revenue proper were made by district local boards to the taluka boards. What I want by the amendment is that the same state of things should be there so long as the taluka boards ought to exist under the present bill and, therefore, I have given this notice of amendment on the lines of section 45 of the old Act, to delete (*e*), (*g*), (*h*), (*i*) and (*k*). What I say is that revenues under these clauses should be of the taluka boards exclusively and, therefore, in order that they should be so, a new clause should be added saying that all these revenues *plus* one revenue under sub-clause (*l*) of clause 75 should be of the taluka boards exclusively. The rest of the revenues will be of the district local boards. It should be on the lines of the old section 45 of the old Act, namely, the Act at present in force.

The Honourable the PRESIDENT: You must move your amendment formally.

Mr. G. C. BHATE: The amendment which I move, Sir, is as follows:—

"In clause 76 (1) (*b*), leave out the letters (*e*), (*g*), (*h*), (*i*) and (*k*); and add clause (*c*) to sub-clause (1) as follows:—

'(*c*) the whole of the revenues described in clauses (*d*), (*e*), (*g*), (*h*), (*i*), (*k*) and (*l*) of section 75 accruing in the areas subject to the authority of such taluka local board'."

Dewan Bahadur K. R. GODBOLE (Poona District): Mr. President, I wish to point out that we have not passed clause 75 yet. It is to be considered and, therefore, the consideration of this clause will have to be postponed until the Council disposes of clause 75.

The Honourable the PRESIDENT: Is that so?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: Yes, Sir.

The Honourable the PRESIDENT: Then, does the House agree to the postponement of the consideration of this clause also till clause 75 is decided?

Honourable MEMBERS: Yes, Sir.

The consideration of clause 76 was accordingly postponed.

Clause 77 (*Local fund where to be expended*) ordered to stand part of the bill.

Clause 78 (*General charges to be defrayed by district local boards*).

Every district local board shall, from the portion of the local fund at its disposal, defray

(*a*) the salaries and other emoluments of all officers and servants maintained under section 119, and the pensions or other retiring allowances, if any, of such officers and servants,

**Noes.**

BHATE, Mr. G. C.
CHITALE, Rao Bahadur G. K.
DADACHANJI, Dr. K. E.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GODBOLE, Dewan Bahadur K. R.
HAJI, Mr. IBRAHIM S.
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA
KALE, Rao Bahadur R. R.
KAMBLI, Mr. S. T.
MOTIRAM, Rao Saheb RUPCHAND
NIMBALKAR, Mr. K. B.
PAHALAJANI, Mr. B. G.
PATEL, Mr. B. P.
PAWAR, Shrimant J. A.
SALGAR, Mr. R. G.
SURVE, Mr. A. N.
TRIVEDI, Mr. G. B.

*Tellers for the Noes :* Mr. C. M. GANDHI and Mr. G. B. TRIVEDI.

The Honourable the PRESIDENT : I am informed by the Secretary that soon after the result of a division has been declared by me some honourable members ask for the division lists. I have instructed the Secretary not to part with any papers during the time that debates are going on. Division lists are certainly intended for publication and every honourable member is entitled to see them ; but so long as we are sitting here honourable members are expected to attend to the debates and not to do anything else. I have desired the Secretary not to part with division lists while the Council is sitting.

Does the Honourable Minister move his amendment ?

The Honourable Dr. R. P. PARANJPYE : Sir, I do not wish to move the amendment printed, because I propose to move an amendment of a somewhat similar nature to clause 9. I have given notice of that amendment, but it is not printed.

Mr. C. M. GANDHI : I may tell the Honourable the Minister for Education that we are not prepared to consider any amendments like this if they are thrown on us without due notice. We ought to be given more time.

Rao Bahadur R. R. KALE : We should have copies beforehand to consider. That is Mr. Gandhi's point.

The Honourable the PRESIDENT : I think in the case of legislation we should not be too rigid and strict in disallowing important amendments for want of previous notice.

The Honourable Dr. R. P. PARANJPYE : In order to solve the difficulty I may mention that this amendment seeks to give certain power to Government to have a controlling power over local boards. It was thought that the powers given to local boards were too large and, therefore, in order to have a certain amount of control and power to prevent misapplication or misuse of the funds in the hands of local boards, I shall propose my amendment, which will be as follows :—

" Provided that if the Government consider that the educational fund of any local authority has been or is about to be misused or misapplied, Government may call upon such local authority for an explanation of such misuse or misapplication and, if not satisfied with the explanation given, may make such reduction of the grants payable to such local authority as they may deem proper. "

I am not moving this amendment just at this moment, but that is what the wording of my amendment will be.

The Honourable the PRESIDENT : As regards the question of moving amendments at the last minute, I may tell the Council that in the House of

[The President]

Commons amendments are allowed to be moved even at the last moment; because, after all, it is legislation, and something may suggest itself on the spot which it would be inadvisable to shut out. That is why our Standing Orders here have vested the Chair with a discretionary power in the matter.

Clause as amended ordered to stand part of the bill.

Clause 5 (*Delegation of duties*) ordered to stand part of the bill.

Clause 6 (*Transfer of schools by municipality to district local board : retransfer*) ordered to stand part of the bill.

Clause 7 (*Control of primary education by school committee to cease*) ordered to stand part of the bill.

Clause 8 (*Absorption of existing educational staff by local authorities : services of such officers shared by local authorities*) :

(1) A local authority shall take over and employ such primary school teachers employed under the Educational Department of the Government as the Government may direct, on the same terms and conditions on which such persons were employed under the said department.

(2) The existing and future rights, liabilities, duties and powers of the Government in respect of such teachers shall vest in and be exercised or performed by the local authority :

Provided (*a*) that any such teacher shall have a right of appeal to the Director of Public Instruction against any order of dismissal ;

(*b*) that the scales of pay and allowances applicable to such teachers at the time at which this Act comes into operation shall not be altered without the previous sanction of the Government.

(3) A local authority shall make such payments to such other local authority as the Government may direct in respect of services rendered to such authority by any teacher taken over by such other authority under the provisions of sub-section (1).

Mr. B. G. PAHALAJANI (Western Sind) : Sir, I move the following amendment :

" In clause 8, sub-clause 2 (*a*), lines 6 and 7, delete the words 'Director of Public Instruction', and insert instead the word 'Government'."

This amendment is an important amendment. This clause is a new clause and compels a local authority to take up the teaching staff as they at present exist, with all their pay, salaries and all their rights. It transfers the present burden to local authorities and therefore when this matter was brought before the select committee, there was a protest against this continuing burden and their continuance as Government servants when complete control over them was handed over to the local authorities ; this clause provides that the existing and future rights, liabilities, duties and powers of the Government in respect of such teachers shall vest in and be exercised or performed by the local authority. The Honourable Minister agreed that the power of dismissal, fining and suspension shall vest in the local authority as their employers. It was reasonable because local authorities will pay them in future and therefore the teachers will be subject to their control. Then, a further question was raised whether those who were in Government service and whose service was being handed over should not have the same kind of redress, and that redress was provided for by this clause that teachers shall have the right of appeal to the Director of Public Instruction against orders of dismissal only. It was provided that in the case of dismissal only, not in the case of suspension, men should have a right of appeal. Now, to whom should this appeal lie ? Who is the final authority ? It should be the Government, that is, the Minister and not the Director of Public Instruction who is merely the head of the department. In other words, should the local authorities, the local boards, which are subject to the Honourable Minister in charge and which have nothing to do with the Director of Public

[Mr. B. G. Pahalajani]

Instruction as the head of the department, have their decisions set aside by the Government or by the Director of Public Instruction ? It is but fair that the appeal should lie to the popular Minister and not to the appointed head. I submit that this change is necessary in order to ensure that the finality of decisions in appeals will be in the hands of the Honourable Minister in charge of the Education portfolio, and not in the hands of the Director of Public Instruction.

The Honourable Dr. R. P. PARANJPYE : As regards this amendment, Sir, I may point out to the honourable members of this House that the power of dismissal of primary teachers at present also rests with the Director of Public Instruction. Take the case of municipalities in which there are school committees, which are fairly independent, and they exercise powers over their own schoolmasters. Even in such cases the municipalities have to take the sanction of the Director of Public Instruction for dismissing a teacher. The procedure usually is this that the municipalities issue the order of dismissal and submit it to the Director of Public Instruction for his sanction, except that as in the case of every Government servant a teacher has the right always of final appeal to Government. Even in these cases the Director of Public Instruction sanctions the dismissal.....

Mr. B. G. PAHALAJANI : A local body can dismiss without any sanction and no sanction is necessary, but if the aggrieved party wishes to appeal, the appeal should be to Government.

The Honourable Dr. R. P. PARANJPYE : At present the municipalities dismiss their own servants and submit the orders of dismissal to the Director of Public Instruction. If the offender has really done something very bad and deserves that punishment, then the Director of Public Instruction confirms the dismissal and the man is finally removed from the service of the Education Department. Now, the schoolmaster has a right of appeal to the Director of Public Instruction and, of course, the same right is continued to him. In Government service, however, every servant has always the final right of appeal to Government, and that is not taken away by this bill. I remember a short time ago an appeal came to me from a cook in a hospital. He said he was dismissed by the hospital authorities wrongly and he appealed against it. Ordinarily, of course, the power of dismissal given to the hospital authorities would be final. But the man wanted to appeal to Government and the case finally came to me.

The Honourable the PRESIDENT : What department was it ?

The Honourable Dr. R. P. PARANJPYE : Medical Department. He was a cook working in a hospital.

The Honourable the PRESIDENT : By whom was the hospital managed ?

The Honourable Dr. R. P. PARANJPYE : By Government.

The Honourable the PRESIDENT : Then, it stands upon a different footing in point of relevancy. There the Government was the final authority.

The Honourable Dr. R. P. PARANJPYE : These schoolmasters are Government servants and they are lent finally to the local bodies. Their pension has to be paid by Government. If the local bodies do not want their services, they need not take them.

Mr. C. M. GANDHI (Surat City): We have no option. We are bound to take them under clause 8.

The Honourable Dr. R. P. PARANJPYE: The man continues to be a Government servant though he is finally given in the charge of that particular local body. We are not restricting his rights to any extent at all when we say that the dismissal should be sanctioned ordinarily by the Director of Public Instruction, because it is only in rare cases when the man thinks that the decision of the Director of Public Instruction is wrong, that he appeals to the Government. I do not think that during the last two years there has been any instance in which the Director of Public Instruction's order has been challenged. The municipality is to dismiss the teacher, and then he is to appeal to the Director....

Mr. B. G. PAHALAJANI (Western Sind): Appeal to the Director; not against the Director.

The Honourable Dr. R. P. PARANJPYE: He is to appeal to the Director and, if the Director sanctions the dismissal, nothing further will probably be heard about it. If the Director does not sanction the dismissal, then just like any private person, a local authority also can appeal to Government.

The Honourable the PRESIDENT: Is there any clause which defines the controlling powers of Government?

The Honourable Dr. R. P. PARANJPYE: Yes. Rules can be made. Clause 27 (1) reads:—

"The Government may by notification in the *Bombay Government Gazette* make rules regulating—

(*a*) the exercise and performance of the powers and duties of local authorities, municipalities which are not local authorities, school boards and School Board Administrative Officers and their relations with the Government Educational Department and with each other in educational matters;"

and so on.

The Honourable the PRESIDENT: Of course, it is in the power of Government to make a rule in the case of a department under their control. But the question is, when a particular power is given, as in the clause here, to a local authority to dismiss a teacher and there is a right of appeal to the Director of Public Instruction expressly provided, whether Government has power to make a rule saying that they have the power of upsetting the decision of the Director of Public Instruction without an express provision in that behalf. That is how the amendment becomes relevant.

The Honourable Dr. R. P. PARANJPYE: Local bodies, Sir, are continually appealing to Government when the powers exercised by the Collectors or other officers of Government are in their opinion wrong. My honourable colleague the Minister for Public Works Department, for instance, is continually receiving complaints or appeals from local bodies. If a Collector refuses to send them forward, then they go over the head of that officer and send their representations to Government.

Mr. B. G. PAHALAJANI: But they have no power of representing to Government.

The Honourable Dr. R. P. PARANJPYE: The power of representation to Government, I submit, Sir, will always continue.

The Honourable the PRESIDENT: Under what law does Government possess the revisional power?

The Honourable Dr. R. P. PARANJPYE : I would rather put it, " Under what law is it taken away " ?

The Honourable the PRESIDENT : It is taken away by this clause. A right of appeal is and must be a creature of the statute ; because it is not given by common law. It must be given in express terms by a statute, and when the right of appeal is given and nothing is said about a further appeal, then I think Government is excluded from it. I think the proper amendment would be : " Shall have the right of appeal to the Director of Public Instruction against any order of dismissal subject to a right of revision by the Government. "

The Honourable Dr. R. P. PARANJPYE : I have no objection to that.

The Honourable the PRESIDENT : Or you may say " and the decision of the Director shall be subject to the revisional powers of the Government." The right of appeal and of revision are both creatures of the statute. They are not given by any general or common law. I am merely putting it as a matter of relevancy, but the Council may accept it or not.

The Honourable Dr. R. P. PARANJPYE : Might we not consider it to-morrow, Sir ?

The Honourable the PRESIDENT : Just as you like. Let it be distinctly understood that, if this bill becomes law, it is within the four corners of it that the administration of educational authorities will have to be conducted. You cannot go beyond this, and, therefore, where the right of appeal is given, then the right of revision is excluded unless it is given by this legislation.

The Council is adjourned till 2 p.m. to-morrow, Friday the 15th December 1922.

*Friday, the 15th December 1922.*

The Council re-assembled at the Town Hall, Bombay, on Friday, the 15th December 1922, at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ABDUL KADIR KHAN ABDUL AZIZ KHAN, Mr.
ADDYMAN, Mr. J.
ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BELL, Mr. R. D.
BHATE, Mr. G. C.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
BULLOCKE, Mr. A. GREVILLE
CADELL, Mr. P. R.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHITALE, Rao Bahadur G. K.
COCKE, Mr. H. G.
DABHOLKAR, Mr. V. A.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DUBHASHE, Mr. SHANKAR BALKRISHNA
DWARKADAS, Mr. KANJI
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
GODBOLE, Dewan Bahadur K. R.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HAVELIVALA, Mr. M. A.
HAYWARD, The Hon'ble Mr. M. H. W.
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA
JADHAV, Mr. B. V.
JENNINGS, Major General W. E.
KALBHOR, Mr. G. M.

KALE, Rao Bahadur R. R.
KASSIM, Mr. G. H.
LALBHAI AMBARAM, Mr.
LALJI NARANJI, Mr.
LAWRENCE, The Hon'ble Mr. H. S.
LIGADE, Mr. S. P.
LORY, Mr. F. B. P.
MANSURI, Khan Saheb A. M.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MOHOMED SALAHUDDIN K., Mr.
MOTIRAM, Rao Saheb RUPCHAND
MURPHY, Mr. S. J.
MUTALIK, Sardar V. N.
NIMBALKAR, Mr. K. B.
PAHALAJANI, Mr. B. G.
PARANJPYE, The Hon'ble Dr. R. P.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SAYED, SHAHJADE SAHEB HAIDAR SAHEB
SETALVAD, The Hon'ble Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY
SURVE, Mr. A. N.
THAKOR OF AMOD, Sardar NAHARSINGHJI
THOMAS, Mr. G. A.
TRIVEDI, Mr. G. B.
WOODS, Mr. E. E.

The Honourable the PRESIDENT : Order, order.

## PRIMARY EDUCATION BILL (BILL No. XVII OF 1922).

(Debate on clause 8 resumed.)

Mr. B. G. PAHALAJANI (Western Sind) : Sir, my object in moving the amendment is this : In this case the schoolmaster becomes the servant of the local authority. As it will be an appeal in case of dismissal against the order of the local authority, the appeal should lie to the Government, which is

[Mr. B. G. Pahalajani]

the superior authority, instead of to the Director of Public Instruction, who is a subordinate official.

Mr. B. V. JADHAV: Sir, I think the appeal should be to the Government as has been suggested by my honourable friend from Surat. The reason for this is that the Government is the superior authority to the board, and if any appeal is preferred at all against the board it should be to the Government.

Rao Bahadur R. R. KALE (Satara District): I may, Sir, point out that sub-clause (2) says:

"The existing and future rights, liabilities, duties and powers of the Government in respect of such teachers shall vest in and be exercised or performed by the local authority."

In fact, the local authority takes the place of Government, and therefore, it is necessary that Government should become the appellate authority over the decisions of the local authority. The appeal should not lie to a subordinate officer as the Director of Public Instruction.

The Honourable Dr. R. P. PARANJPYE: I accept the amendment.

Question put: That the words "Director of Public Instruction" be left out and that the words "Government" be inserted instead, and carried.

The Honourable Dr. R. P. PARANJPYE: Sir, the amendment which I wish to move is as follows:

"In proviso (*b*) to sub-clause (2) of clause 8, leave out the words 'this Act comes into operation' and insert instead the words 'they are taken over and employed by the local authority.'"

The Act comes into force as soon it receives the assent of the Governor General. On that day it is possible that some of the local bodies may not be in a position to take up their liabilities. It may require a few days before they are able to do so. To meet that contingency this amendment is necessary.

Amendment carried.

The Honourable Dr. R. P. PARANJPYE: I move, Sir:

"That the following clause be added as sub-clause (4) to clause 8:—

'The provisions of this section shall apply to all primary school teachers employed under the Educational Department of the Government on or before the 1st July 1923 or on or before the date prescribed under section 4, sub-section (1), whichever shall be later.'"

The reason for this amendment is that a certain number of teachers are in the training college; some of them have already come out after their training in November. Those who are under training now in Sind may not come out till July next, and to meet that contingency this provision has been made. But the teachers in the Sind Training College are already under training and provision will have to be made for them. And it is for this that this clause is required.

Amendment carried.

Clause as amended ordered to stand part of the bill.

*Clause 9* (*School Board Administrative Officer*).

(1) The local authority shall, on the recommendation of the school board and with the approval of the Government, appoint an officer who shall be called the School Board Administrative Officer. He shall be the chief executive officer of the school board and his pay, powers and duties shall be determined by rules made in this behalf by the local authority and sanctioned by the Government.

(2) No such officer shall, save with the previous sanction of the Government, be removeable from office, reduced or suspended unless by the votes of at least two-thirds of the whole number of councillors.

Mr. B. G. PAHALAJANI (Western Sind): Sir, I beg to move:

"That in clause 9, sub-clause 2, line 6, the word 'previous' be left out."

[Mr. B. G. Pahalajani]

This clause was inserted to afford a safeguard to the administrative officer appointed under the Act and to protect him from dismissal by a bare majority which in elected institutions may vary with the wind : but that effect can be secured even without retaining the word 'previous.' Even without that word existing his dismissal cannot be obtained except with the consent of two-thirds of the number of members constituting the board or the sanction of the Government. It will be rather odd to secure Government sanction to the dismissal before the resolution to that effect is passed, as the word 'previous,' if retained, will imply.

The Honourable Dr. R. P. PARANJPYE : Mr. President, the word 'previous,' we are told by the legal authorities, is not absolutely necessary. I shall only mention the effect of this clause of which there seems to be some doubt, and it is this. If the local authority by a clear majority of its members determines that the officer should be removed, he can be removed without the sanction of Government. But if the local authority passes the resolution to remove the officer by a bare majority or by a snatch vote, then that resolution will not have effect until Government's sanction is obtained ; so that we are giving absolute power to local authorities with a clear two-thirds majority of its members, and it is only when that majority is not clear and still the local authority passes a resolution by a small majority or by a snatch vote that Government's sanction will have to be got. However, I do not think that the word 'previous'.....

Mr. B. G. PAHALAJANI : I do not challenge the object, Sir. I say the word is unnecessary.

The Honourable Dr. R. P. PARANJPYE : So far as the word 'previous' is concerned, I do not think it makes any difference at all if it is removed.

The Honourable the PRESIDENT : I think the word 'previous' does make a difference. It is this : a resolution to remove may be given effect to and the sanction of Government may be obtained later on, but, if the word 'previous' is there, it restrains the local authority and makes the sanction of Government a condition precedent to the removal.

The Honourable Dr. R. P. PARANJPYE : I quite understand. There might actually arise cases in which immediate action might be necessary.

Mr. B. G. PAHALAJANI : Without the previous sanction the man cannot be removed.....

The Honourable Sir CHIMANLAL SETALVAD : I think "previous" should remain there.

The Honourable the PRESIDENT : It is a safeguard in the interest of the subject.

Mr. B. G. PAHALAJANI : If legal opinion is such, Sir, I shall withdraw the amendment.

Amendment by leave withdrawn.

Clause ordered to stand part of the bill.

*Clause 10 (Declaration by local authority of intention to provide compulsory elementary education).*

(1) A local authority may by resolution declare its intention to provide compulsory elementary education in the whole or any part of the area subject to its jurisdiction in the case of children of either sex or both sexes and, if the local authority is a district local board,

[Mr. B. G. Pahalajani]

in any area subject to the jurisdiction of a municipality situate in the district which is not a local authority and shall submit its proposals to the Government in the form of a scheme.

(2) A local authority, if called upon by the Government so to do, shall within a time to be specified by the Government submit a scheme to provide compulsory elementary education in such area as above as the Government may direct and in the case of children of either sex or both sexes as the Government may specify.

(3) Every local authority shall, within the prescribed period, prepare as complete a programme as possible for the universal introduction of compulsory education within the area subject to its jurisdiction within a definite period.

Mr. B. G. PAHALAJANI (Western Sind): Sir I move:

"That in clause 10, omit sub-clause (1) and insert instead the following sub-clause as sub-clause (1); namely,

'It shall be the duty of the Government to gradually introduce by definite stages free and compulsory primary education and make adequate provision for the same within the whole Presidency subject to such exemption as may be made by the Government under section 25 of this Act, within a period of ten years after the commencement of this Act.'"

Sir, this is a compulsion section. When I moved the two amendments standing in my name in the select committee, the chairman disallowed them. I have come before the House and before the Chair for a ruling whether these amendments should go in. I have now formally moved the first. At the first reading of the bill I complained that there was no provision in the bill for making it compulsory on the part of Government to introduce free compulsory education. My submission to this House is that if this bill, this legal enactment, which is to be an enactment for all time, is to be carried into effect within a sufficient time, there should be a compulsion on Government and the local authorities. It is not sufficient only to have a scheme on paper, either in the archives of the Government or in the archives of the local authorities, but there must be a provision in the bill, either for the Government or for the local authorities to carry into execution a scheme, without regard to the circumstances of any particular year.

The Honourable Dr. R. P. PARANJPYE: As a point of order, I want to submit that this amendment is out of order.

The Honourable the PRESIDENT: I see that. I do not see the Honourable the Finance Member here. In the case of an important bill raising financial considerations or questions I think the Honourable the Finance Member ought to be present in the Council.

The Honourable Sir CHIMANLAL SETALVAD: May I point out that the amendment proposed, namely, 'it shall be the duty of Government to gradually introduce, by definite stages, free and compulsory education,' tries to impose financial responsibility on Government without regard to any unforeseen circumstances that might arise? The amendment says the Government is bound to do something, but they cannot do that without sufficient financial provision.

The Honourable the PRESIDENT: I must rule this amendment out of order, for this reason. As I have done several times before I ought once again to point out that section 80C of the Government of India Act, which says that it shall not be lawful for any member of the Legislative Council to make any motion or bring any measure which shall affect the public revenues or impose any charge thereon, has been in substance borrowed from the rules of procedure in the House of Commons. That was pointed out by the Right Honourable Mr. Montagu, then Secretary of State for India, during the time the

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Government of India Bill (now the Act of 1919) was under debate in that House. He said :

"We have striven to adopt a procedure similar to the House of Commons, though not exactly the same."

That means, there the procedure is a little different from ours in point of minor details, but the main rule is the same.

I rule out this amendment accordingly.

Mr. B. G. PAHALAJANI : What about my second amendment ?

The Honourable Dr. R. P. PARANJPYE : Sir, I submit that the second amendment is also out of order, because it compels the local bodies to introduce a scheme in their areas, and clause 13 of the bill makes it the compulsory duty of Government to provide half, or two-thirds, or whatever other proportion that the Government may make themselves liable to pay. Therefore, as soon as you compel a local body to introduce a scheme, a liability is thrown on Government simultaneously. I submit, therefore, that that is out of order.

The Honourable the PRESIDENT : Before I decide the point of order raised, I should like to hear some arguments.

Mr. B. G. PAHALAJANI (Western Sind) : Mr. President, I formally move my second amendment, which is as follows :—

"Substitute the following for clause 10 (3) :—

'Every local authority shall frame a scheme of progressive introduction of free and compulsory primary education to be completed and shall complete the same, within a period of ten years in the whole of its area subject to such exemptions as may be made under section 25 of this Act.'"

Now, clause 10 (3) says :

"Every local authority shall, within the prescribed period, prepare as complete a programme as possible for the universal introduction of compulsory education within the area subject to its jurisdiction within a definite period."

Clause 12 of the bill empowers Government to sanction such scheme with or without modification, and clause 13 lays down the proportion of the Government contribution. Now, so far as the local authorities are concerned, the object of the bill is to compel them to introduce compulsory education, where there was option before. The municipalities had been given the option before, but that optional compulsion has now to be converted into real compulsion, and therefore, I submit that there ought to be some provision to compel local authorities not only to prepare a paper scheme as laid down in sub-clause 3, but to carry it out within a definite period. Sub-clause 3 does not go beyond compelling local authorities to prepare a paper scheme, that is, to prepare a scheme and submit it to Government. If Government has not got the money, under clause 12 it has got the power to keep it in abeyance, and may go on doing so till its resources improve. But once the sanction is given, then I submit there should be no stop to it, nor has the Honourable Minister said that once the scheme is sanctioned there will be an additional charge upon the provincial revenues under clause 13. Once a paper scheme is sanctioned under clause 3, the Government shall give its proportion under clause 13. It is for the Government to keep it in abeyance, but simply because the local authority is to be compelled to complete the scheme, and to put it into execution, is no burden upon the Government which attracts the application of section 80 C. of the Government of India Act. If it is contended that it does apply, then it will

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apply to every imaginable case. Section 80C cannot be stretched to a ridiculous extent; there must be a reasonable interpretation of it in favour of the subject, and not against the subject. I therefore submit that, so far as local authorities are concerned, there must be some compulsion on them to prepare a paper scheme and *to put it into execution* within a particular period. So far as the burden of Government is concerned.....

The Honourable the PRESIDENT: What you say is that, although by this clause Government can compel a local authority to carry a scheme a stage further and the result of it would be to increase the charge, it is for Government to keep it in abeyance.

Mr. B. G. PAHALAJANI: Under clause 12, it is for them not to sanction, as once it sanctions, then clause 13 comes into play. It may not sanction; till then there is nothing, but once it sanctions, clause 13 comes into play. If clause 13 did not exist or this House or any private unofficial member were asking Government to lay a charge, then the Honourable Minister would be right, but when clause 13 actually appropriates and fixes proportions which are not varying, then clause 12 applies. There is no reason why local authorities should not be compelled to execute the whole scheme within the period. There is no further burden on the Government. Therefore I submit that, if Government is desirous of seeing compulsion carried out within a certain period, then they must hold somebody responsible for carrying it out within that period and those are local authorities.

Mr. C. M. GANDHI (Surat City): Sir, my amendment also calls upon local boards to prepare a scheme of progressive development and expansion of elementary education so as to finish it within a particular period. It will not impose any additional duty or any charge on revenues until and unless Government accepts that liability under clause 12. So I say I should be allowed to move it.

Mr. F. B. P. LORY: Sir, may I point out in this connection that this amendment which the honourable member from Sukkur is moving does in my opinion impose additional obligations on Government? It definitely mentions a ten years' scheme. Under clause 12 the scheme referred to is not for any definite period at all; it provides for calling for a scheme, and it is the intention of Government to call for a scheme annually and to sanction a scheme from year to year and provide funds from year to year. The present amendment binds Government to a ten years' scheme and therefore I submit it is out of order.

The Honourable Sir CHIMANLAL SETALVAD: The amendment moved by Mr. Pahalajani is out of order on two grounds, Sir; the first is that, if you read the amendment, you will find it says "every local authority *shall* frame a scheme..... and *shall* complete the same." He himself says that under clause 12 Government need not sanction a scheme in which case it need not be completed in ten years, but his amendment says it *shall* be completed. It is absolutely inconsistent.

The Honourable the PRESIDENT: The honourable member for Western Sind (Mr. Pahalajani) has admitted that though according to his scheme Government will not be bound to sanction the scheme but may keep it in abeyance, yet if it does sanction it, it might impose a charge on the public revenues. The rule as interpreted by the Speaker in the House of Commons is that a clause

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in any bill proposed by a private member is not in order if it *might* impose a charge. (Parliamentary Debates: Official Proceedings: Volume 155, 1922: Column 2095). If it might, then it will have the result of imposing a charge when and if Government sanction the scheme. The amendment is out of order for want of sanction under section 80C of the Government of India Act.

Mr. A. N. SURVE (Bombay City, North): Sir, my amendment is as follows:—

"In clause 10, sub-clause (3), add at the end the following words 'not exceeding 10 years.'"

My object in doing so is to put a definite meaning on this expression "definite period." If a definite period is not laid down in the bill itself, if it is not defined in the bill itself, some local bodies may interpret it to mean that they may allow the progress of education to extend over 50 years, some over 20 years, some over 15 years, some over 5 years, and so on. So my amendment now gives a limit, that the progress shall be limited to 10 years. The select committee says on this particular clause:

"This clause requires a local authority to prepare a programme for the complete introduction of compulsory primary education within a specified period."

The "specified period" is nowhere specified. Government has accepted the ten years' programme which is recommended by the Compulsory Education Committee's report. Therefore, I think, if the words "ten years" are put there, the local bodies will be in a position to know that they have to carry it out within ten years.

Then, as the Honourable Minister has kindly said that my amendment does not put any obligations on the revenues of Government, I shall not touch that point. Government have declared yesterday that they are willing to insert the ten years' period in the preamble. But a preamble of a bill is not its operative part. It is only the sections or clauses that are the operative part of an Act, and, as you, Sir, once observed, preambles of many Acts contain lies.....

The Honourable the PRESIDENT: Contain what?

Mr. A. N. SURVE: So, Sir, it is not enough or of any use having this ten years' period only in the preamble. I would draw your attention, Sir, for instance, to the preamble of the Rent Act, II of 1918, which stated that the Rent Act was introduced because there was war going on, and I had brought it to your notice then that the war had ceased.....

The Honourable the PRESIDENT: I have not heard exactly what the honourable member said with regard to preambles. What was it that the honourable member states I had said?

Mr. A. N. SURVE: I stated that you had said that preambles of many Acts contain lies.

The Honourable the PRESIDENT: No; I did not mean that. When I said that a preamble sometimes lies, I meant it is dormant, has no effect as an enactment. It is a mere declaration or statement of facts or purpose.

Mr. A. N. SURVE: Therefore, I submit that if the Government are disposed to accept this amendment in the preamble as regards the period of ten years, then if these words are added in this particular clause, there should be

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no objection. With these words, Sir, I recommend my amendment for the acceptance of this House.

The Honourable Dr. R. P. PARANJPYE: Mr. President, if you will read the words of this clause, you will find that it contains a programme as complete as possible for universal introduction of compulsory education, and the Compulsory Education Committee's report never went to that length. It proposes a certain programme which will practically include about 80 per cent. of the boys within the Presidency and about 60 per cent. of the boys in Sind, and as regards girls, the programme suggested was far from being universal. It was meant for bringing in about a lakh of girls in ten years. If the Council calls that "universal education," I have no objection to their calling so. But, so far as I understand it, it is far from being universal and therefore universal education is not practicable. As regards the universal introduction of compulsory education programme, that will have to extend over a much longer period than ten years. By universal introduction is meant boys as well as girls, and nobody has proposed that all the girls should be brought immediately under compulsory education.

The Honourable the PRESIDENT: Where is the expression "universal education" defined?

The Honourable Dr. R. P. PARANJPYE: I take it, Sir, in the ordinary sense of the word, not the legal meaning of the word. So far as I understand it, I think it would be merely playing with words if the term universal education is applied to a far more limited programme of this nature. We might have to prepare a programme which could last for twenty years, the first ten years being devoted to the extent that is contemplated by the Compulsory Education Committee. In the case of certain districts a wide programme cannot be made, and in the case of most districts in Sind, as my honourable friend from Sukkur says, a very wide programme cannot be made, at least so far as girls' education is concerned. Therefore, in their case we might have to tell them that they will have to take it over a longer period. All that is contemplated is that in municipalities and larger villages where there are schools at present, where compulsory education might be introduced, a shorter period may be fixed. I do not think anything is gained by putting in the clause suggested in the amendment, first of all, because it is meaningless, and secondly, because it would be impracticable or a failure.

Mr. C. M. GANDHI (Surat City): Mr. President, I submit, Sir, that the clause as it stands is a mere eye-wash intended to satisfy some members of this House who have been keen about a definite period being mentioned; so that the clause as it stands is as meaningless as the amendment, and I would rather vote against both.

Rao Bahadur R. R. KALE (Satara District): Mr. President, it is rather doubtful whether "a definite period" is to be taken as relating to the introduction of compulsory education or to the preparing of a programme in a definite period.

The Honourable Dr. R. P. PARANJPYE: It refers to the preparation of a programme for universal compulsory education.

Rao Bahadur R. R. KALE: Then, it becomes a point of order. If it is meant that the introduction of compulsory education in the rural areas is to be completed within a definite period not exceeding ten years, then the

[Rao Bahadur R. R. Kale]

matter will stand on a different footing. It is not merely the preparation of a programme but the completion of a programme for the introduction of compulsory education within a period not exceeding ten years, and hence we impose certain liability which affects the financial position of Government. Therefore, it seems to me that it stands on the same footing as the amendment of the honourable member from Sukkur, which was ruled out of order. In view of that, it would be better not to accept the amendment.

Mr. A. N. SURVE (Bombay City, North): Sir, I only want to add that distinction is being sought to be made out between universal compulsion and compulsion as laid down by the Primary Education Committee. But there is practically no difference because girls are not under consideration. So, only boys are to be regarded; and the Primary Education Committee makes a programme for 80 per cent. of boys which is the highest number that can possibly be brought under compulsion. Sickness and other disqualifications, want of schools giving instruction in the vernacular of the child, refusal of admission into school on account of fulness, etc., will even under the so-called universal scheme shut out more than 20 per cent. students. Then wherein is the difference between the universal scheme and the scheme of 80 per cent. as framed by the Primary Education Committee?

Amendment negatived.

Clause ordered to stand part of the bill.

Clause 11 (*Particulars to be contained in scheme*).

The scheme shall contain the following particulars:—

(*a*) the area of compulsion;

(*b*) a census of children of either sex or both sexes residing within such area and classified by communities and vernaculars;

(*c*) a list of existing and proposed schools indicating the private schools which will be approved schools;

(*d*) a schedule of existing and proposed teaching, inspecting and supervising staff;

(*e*) the manner in which provision will be made for the compulsory elementary education in their vernaculars of the children of all communities in the area of compulsion;

(*f*) the recurring and non-recurring cost of the scheme and how the local authority proposes to meet its share of it; and

(*g*) if there is a municipality which is not a local authority within the area of compulsion, the annual contribution which the municipality in the opinion of the local authority should make.

Mr. A. N. SURVE (Bombay City, North): Sir, I beg to move

"In sub-clause (*e*) of clause 11, line 19, omit the word 'their' and insert instead the word 'the'."

Here, Sir, there is a confusion arising out of different constructions. Either 'the' should be substituted for 'their' or 'their' should be a parenthesis.

Mr. F. B. P. LORY: Sir, the word "their" does not depend on the expression "vernacular" at all; it depends on the word "education". "Elementary education of the children in their vernaculars," that is the meaning. I submit, Sir, that this amendment is not necessary.

The Honourable the PRESIDENT: Yes, this amendment is unnecessary.

Clause ordered to stand part of the bill.

Clause 12 (*Sanction of Government to scheme*) ordered to stand part of the bill.

Clause 13 (*Government to make financial provision for scheme*).

(1) If the scheme is sanctioned, the Government shall agree to bear half or such higher proportion as the Government may determine in each particular case of the additional recurring and non-recurring annual cost of the scheme if the local authority is a municipality and three-fourths of the said cost if the local authority is a district local board, not exceeding however half or such higher proportion or three-fourths, as the case may be of the cost as estimated by the local authority in the scheme as sanctioned.

Explanation: In this section non-recurring cost shall not be deemed to include the cost of construction of school buildings.

(2) Nothing in this section shall affect the right of any local authority to any annual grant which at the time this Act comes into operation is being paid to it by the Government for purposes of primary education.

The Honourable Sir CHIMANLAL SETALVAD: Mr. President, you will please allow me to move the amendment of which the Honourable Minister has given notice:

"In clause 13, instead of allowing sub-clause (1) to stand according to the draft of the select committee the following sub-clause should be substituted: 'If the scheme is sanctioned, the Government shall bear half of the additional recurring and non-recurring annual cost of this scheme if the local authority is a municipality, and two-thirds of the said cost if the local authority is a district local board, but the liability of the Government shall not exceed half or two-thirds as the case may be, of the scheme as it was mentioned of the local authority.'"

The Honourable the PRESIDENT: I cannot put the sub-clause as it appears in the draft of the select committee as it is a sub-clause which has not had the previous sanction of the Governor as required by the statute. Therefore, I shall have to put the sub-clause which has been proposed to be substituted.

The Honourable Sir CHIMANLAL SETALVAD: The original not having the sanction of the Government cannot come in; therefore, this one only holds good.

The Honourable the PRESIDENT: The latter part of the sub-clause (1) as it appears in the select committee's draft cannot be put for want of the sanction and therefore this is the new sub-clause which is proposed to be substituted for the original sub-clause. Honourable members may propose amendments to this proposed sub-clause provided they are in order.

The Honourable Dr. R. P. PARANJPYE: Sir, I wish to make a verbal alteration in the amendment that has been proposed. It would read thus:

"If the scheme is sanctioned the Government shall bear half of the additional recurring and non-recurring annual cost of the scheme if the local authority is a municipality and two-thirds of the said cost if the local authority is a district local board, but the liability of Government shall not exceed half or two-thirds as the case may be of the scheme as estimated by the local authority."

It is practically the same except a few verbal alterations. I have got to add an explanation, Sir....

Mr. C. M. GANDHI: Sir, before this is put to the vote, if the Explanation also is moved, we will be in a position to judge the clause as a whole.

The Honourable Dr. R. P. PARANJPYE: Sir, I move:

"That the following be substituted for the explanation to sub-clause (1):

'In this section non-recurring cost shall be deemed to include only the cost of maps, books, slates, writing materials, teaching apparatus and school furniture; it shall not be deemed to include the cost of construction of school-buildings.'"

My object in substituting that explanation is to make it absolutely clear that the non-recurring cost includes only the cost of maps, books, slates, writing materials, teaching apparatus and school furniture, and that it should not be deemed to include the cost of the construction of buildings.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, the recommendation of the Primary Education Committee was that it may not be necessary to commence with the programme of constructing school-buildings, but it is necessary to build school-houses in out of the way places. I think the Honourable Minister stated that it would cost 5 lakhs for such a programme in the first instance.

The Honourable Dr. R. P. PARANJPYE: That is what the Primary Education Committee says.

Rao Bahadur G. K. CHITALE: It now appears to me that the Honourable Minister wants to take no responsibility for the construction of school-buildings, and to throw the whole responsibility on the local bodies.

The history of the grant-in-aid for the last 20 years is really picturesque. No doubt very great strides have been made since 1903 to 1922. You will see that the local bodies will be losing a valuable asset of half the grant for school-buildings. Now that is gone, perhaps for ever. I ask whether it is fair that the local bodies should be asked to shoulder this additional burden of the construction of school-buildings when already the programme of completing the programme of compulsion has been thrown on them — to use the wording of the clause, the making of the scheme of universal introduction of compulsory primary education as complete a scheme as possible. To me it appears that the Government are the predominant partners, and it is just that they should meet the demands on the other side. For instance, I have got some schemes almost ready. It is all very well to say that you can do without it; it is theoretical to say that the depressed classes have a right of sitting in schools held even in temples; but they may be made to sit outside for another quarter of a century. This appears to me to be an unfair treatment. If you put these words in the bill as it is, it takes away even the voluntary doles you were giving now and then. Sir, the local body will have to include in their scheme not only the particular items you have given, but also the cost of construction of buildings. It is only fair that they should be allowed to do this. If you do not, then this Act will not be put into actual practice and will share the fate of the Patel Act.

The Honourable the PRESIDENT: I should like to know from the Honourable Minister for the purposes of a point of order whether the change proposed by him is not an administrative matter of detail which it is not usual to include in a legal enactment?

The Honourable Dr. R. P. PARANJPYE: Sir, this legislative enactment contains the words 'recurring and non-recurring' and makes Government liable to meet a certain proportion of the expenditure. Government cannot obviously undertake to meet the liability in regard to non-recurring cost if it is intended to include cost of construction of school buildings. It is intended by the Government that the local bodies shall provide such accommodation, even though of a very unsatisfactory nature, as may be available—either chavdis, or outhouses, or even under a tree if necessary. That is what is intended. If the whole scheme of compulsory primary education is to be clogged with the responsibility for buildings, well, we might as well say good-bye to all reasonable progress of primary education. It is possible only if we are willing to stand the inconvenience....

The Honourable the PRESIDENT: I merely wanted to know that in order to see whether I should rule this amendment out of order, because it has been ruled by the Chair in the House of Commons that administrative details are out of place in an Act. That is the general principle; they are fit matter for rules and regulations. But I will see how the discussion goes on, and if I find that they are merely matters of administrative detail, I may have to rule out the amendment.

Rao Bahadur G. K. CHITALE: I want to show, Sir, that this is asking a local authority to do an impossible thing.

The Honourable the PRESIDENT : A matter of impossibility may not be a matter of administrative detail.

Rao Bahadur G. K. CHITALE : I am not making a point of that. We may take it roughly that in every taluka we have got about 30 to 40 schools and they provide educational facilities for about one-third of the school-going children. You will also see, Sir, and you may take it from me, that in many of these villages no buildings will be available, and in some of the treeless localities there will not be even trees available. You might perhaps say that we shall first plant trees before we implant a school. It seems to me that by putting a matter of administrative detail in this enactment the Honourable Minister wants to reduce the scheme to a skeleton—perhaps a steel-frame skeleton—so that nothing might be stuffed into it. It is a great responsibility that you are going to fasten on the local bodies by not including the cost of construction of buildings in the non-recurring charges. To accommodate about 60 boys you will have to incur an expenditure of about Rs. 2,000 to Rs. 3,000, for a decent building, nothing very imposing but a small structure with plenty of light and air. Now, what they say is that in the recurring expenditure the rent only will come in. If there are no houses, there will be no rent, and therefore nothing will be paid. Is it not illogical and very unreasonable, and, to my mind, unworthy of the credit of Government, to say " If there is a house available and you pay rent, we are prepared to bear a share of it ; but if you construct a building we are not prepared to bear the expenditure on a rental basis." Let the offer be to this extent at least : that if the local board puts in a building they will bear the capital cost, but Government will be prepared to pay their share of the assumed rent.

The Honourable Dr. R. P. PARANJPYE : Rent will be put under recurring expenditure.

Rao Bahadur G. K. CHITALE : I want the rent of the new buildings put up by the local board. This, Sir, is a hide and seek game pure and simple. They think that when people are there wishing to get primary education they will swallow anything, good, bad or indifferent. Take it from me with all the earnestness at my command that the local bodies will not be able to give practical shape to this Act if this condition is put in. Sir, we are acquainted with these villages and most of these treeless villages. If you go there, you will find that in 50 per cent. of cases there are no buildings for schools. You will have to put up from time to time decent buildings. Is it not unreasonable to say to these villagers " we will let your boys come in under compulsion, but let them stay in insanitary buildings or in outhouses or under trees ? " To compel them to come in and keep them in insanitary surroundings will be a disgrace. If the local authority hires a house and pays rent, you will bear the charges, but if it builds a decent house—not a magnificent mansion—with sufficient air and light you say it must bear the cost and you will not pay for the rent. That is nonsense. Before we part from this House after its life-term, if an account is taken of every member who has voted for this bill, as to how many schools he has started in his constituency on the foundation given to us by the Honourable the Education Minister, I am sure we shall have a poor account. I may prophesy, Sir, that the scheme will not be worked within the next twenty years—leave aside the ten years proposed in the bill.

Sir, I object to the amendment on the first ground, that it is a matter of administrative detail to be adjusted between the Government and the local bodies in accordance with the merits of each case, in accordance with the

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circumstances of each district. If the Government is satisfied that the local authority has done its duty to put its boys in sanitary surroundings, the local authority should have a share. If this House does not throw out this clause, I say with all the emphasis at my command that we shall be enacting a legislation which on a large scale will never be worked in practice. I shall also be compelled to say good-bye to this Act if this amendment is carried. I think, Sir, that the best thing is to leave it to the Government on the one hand and the local bodies on the other to adjust matters.

Rao Bahadur R. R. KALE: Mr. President, we are having a series of surprises in this session with regard to more than one bill. So far as this bill is concerned, it was made clear by the unanimous opinion of various members of this Council that the crux of the whole problem of compulsory primary education is the financial assistance, and unless and until that question is solved in a satisfactory manner, no Act of compulsory primary education would be of any value, except as a paper constitution. It was therefore urged, in the select committee, that there should be an improvement in the clause as it stood in the original bill. You, Sir, were pleased to say, when we were on the second reading that the question whether the clause as amended by the select committee was in order or not would be decided at the time the Council discussed the clause. Now, I find, that the clause, as inserted and approved by the select committee is out of order.

The Honourable the PRESIDENT: Will the honourable member be good enough to confine himself to the question before the House? I think it is unnecessary for the debate to proceed upon this question. I really think it is a matter of administrative detail.

The Honourable Sir CHIMANLAL SETALVAD: May I say one word on the point of order, Sir?

The Honourable the PRESIDENT: I am putting a stop to the debate so far as it is not relevant.

The Honourable Sir CHIMANLAL SETALVAD: If I have gathered it correctly, the view is that this explanation brings in a matter of administrative detail, and therefore need not be discussed. It is on that point that I want to say that it is not a matter of administrative detail.

If you will turn for a moment to clause 13 as it stands, the first part provides that the Government shall be liable to pay the two-thirds, or whatever other proportion it is, of all recurring and non-recurring cost. Now, what the explanation tries to do is to limit that liability by saying that the non-recurring cost shall not include the cost of construction of buildings. So, I submit that it is not a matter of administrative detail. If you had not the explanation there, the liability of Government as regards all non-recurring expenditure including buildings will be complete, and what is attempted by the explanation is to cut down that liability. Therefore, it is an essential thing. The explanation is intended to limit the liability of Government to all expenditure outside buildings.

The Honourable the PRESIDENT: Does Government want to exclude all non-recurring expenditure?

The Honourable Sir CHIMANLAL SETALVAD: They want to exempt themselves from the liability to pay any part of the cost of construction of buildings. If the explanation is not there by virtue of the first part of

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clause 13, the full liability, to pay the fixed proportion of all recurring and non-recurring expenditure including the construction of buildings, will be on Government.

Rao Bahadur R. R. KALE (Satara District): Sir, I was not questioning the ruling of the Chair; I was only trying to show how the matter has progressed from various stages, and how this explanation came to be entered. It was not in the original bill, but in the select committee when the Honourable Minister agreed to the increase of the Government contribution from two-thirds to three-fourths, then the question arose as to whether this three-fourths liability should include the non-recurring expenditure on buildings. It was pointed out that Government might be prepared to bear the recurring three-fourths expenditure, but it won't be prepared to incur the non-recurring expenditure such as on buildings and it was for that reason that the Government contribution to the extent of three-fourths was inserted in the clause.

The Honourable Dr. R. P. PARANJPYE: As a point of order, a pact like this was never arrived at in the select committee.

The Honourable the PRESIDENT: That is not a point of order: that is an explanation.

The Honourable Dr. R. P. PARANJPYE: What the honourable member has said is not a fact.

Rao Bahadur R. R. KALE: I was a member of the select committee and I gave my assent to this explanation on that understanding. As a member of the select committee, I am bound to say that the explanation was agreed to because the expenditure by Government was increased from two-thirds to three-fourths. Therefore, as I said, when at the beginning of the second reading the Honourable Minister announced that he was going to move an amendment to reduce the three-fourths to two-thirds, he never said anything about the explanation. It is now that we find that an attempt is made to go back upon the explanation, and make some amendment in the explanation also. Therefore, I say that the bill is whittled down to such an extent that practically it is going to be merely a paper Act, and not an enactment which can be worked in the conditions prevailing in the mofussil. It is stated that it is impossible for the Government to incur any expenditure on buildings. Is it suggested that it is possible for the local bodies to incur any expenditure on the buildings? I cannot find any the least soundness in that reasoning. The condition of the local bodies is much worse than that of the provincial Government. Therefore, if with great difficulty, a local body finds out a building, Government will not have to contribute anything, but if a local body is unable to find out any building, and therefore proposes to incur some expenditure on a very small building, a very modest hut, does it not stand to reason that the Government should contribute its quota towards that expenditure? A local board is not in a position to erect a palatial building and then ask Government to contribute its quota. I submit that to argue that the finances of the Government are so straitened that they cannot afford to spend anything on buildings, and suggesting that in the case of local bodies it is different, is not right reasoning, and I hope it will not appeal to any one in this House. In regard to the main clause which limits the proportion of the grant, that too has to be passed. The clause as well as the explanation is under discussion and I gave my grudging assent to the clause even as it stood, but now that it is whittled down by a change in the

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explanation, I must say that it will be very difficult to give my assent to the clause. No doubt I am aware of what the fate of the bill would be if this clause were to be passed with the explanation. Instead of having a bill like this on the statue book and having a mere paper constitution, why not boldly face the situation? Every inch of the ground is being taken away and I think that such an attempt ought to be very strongly resented and resisted.

Mr. F. B. P. LORY: Sir, I must confess that I have found some difficulty in understanding how the remarks of the two honourable members who have spoken last are directly pertinent, because, even if the House rejects the amendment which is now before it, the exemption of Government from the obligation of giving grant for the construction of buildings, to which point those last two honourable members have entirely confined their remarks, still remains.....

Mr. G. C. BHATE: I rise to a point of order, Sir. What I understood by the amendment is that the whole clause 13 as printed in the select committee's report goes out.....

The Honourable the PRESIDENT: No, no. Only that portion which enhances the charge to three-fourths, and therefore I ruled it out of order. I have put the amendment and the explanation and the debate is proceeding upon that.

Mr. F. B. P. LORY: As I was saying, the position is, as I understand it, that the amendment now before this House is an amendment to the Explanation and, if the House rejects that amendment, we are then still in the same position as regards the obligation or non-obligation of Government to pay for the construction of buildings. I therefore submit, Sir, that the remarks of the two honourable members who have spoken last have not been directly to the point. As, however, those two honourable members have raised the question of school buildings, I should like to make a few remarks on that point. I must confess that I am very much in sympathy with the two honourable members in question. It is a fact that school buildings will be required and it must be admitted that they are a necessary part of any scheme, but at the same time, Sir, it seems to me that this is a matter of determining what is most practicable. We are all agreed as to the desirability of the introduction of compulsory education and we are all agreed that the principal obstacle is that of finance. Now, Sir, we know that certain funds will be forthcoming and the question is, what you are going to do first with the limited funds at your disposal. It is the desire of Government that the funds at its disposal should be devoted first to giving as large a measure as possible to compulsory education. That is, we want to provide for as many schools and for as much compulsion within the shortest possible time that we can, and if the amount which is at the disposal of Government is to go partly to the cost of school buildings, then, Sir, we shall be able to provide for a smaller number of schools and a smaller number of pupils. I agree, Sir, that it is a very desirable thing to provide satisfactory buildings, but we have got to remember that the number of district local board schools which at present possess their own buildings is very small. Speaking from memory, I think for the whole of the Presidency not more than ten per cent. of the schools have their own buildings, and, with due deference to the honourable member from Ahmednagar, I contend that in the majority of cases it will be possible for the boards to carry on in the manner which they have done in the past and to provide for schools in casual buildings.

Mr. B. G. PAHALAJANI (Western Sind): Sir, I am extremely gratified, rather amused, to see the change in the attitude of the House to-day after yesterday's voting, and, after all, I am very pleased to see that my honourable friends are not prepared to take the Government's attempts lying down. The Honourable Minister gave considerable hopes to my friends from the Southern and the Central Divisions that they would be given a good bill, and I am extremely pleased to find that every amendment brought on behalf of Government serves to decrease the popularity of the bill. It is rather a matter for painful surprise, as stated by my honourable friend from Satara, that the Government is clenching and clenching the provisions further till the whole bill becomes unworkable. The Government in the select committee satisfied the select committee by undertaking that the two-thirds grant would be raised to three-fourths and the select committee were gratified to know that local boards would have some more money with which to carry on their business and perhaps to build their own buildings out of such surplus money. On that understanding and on that compromising of the whole situation there—whether by majority or by the unanimous consent it does not concern the question at all—it was agreed that buildings might be given to the district local boards to be built—the duty of raising pucca or kutcha buildings would be placed on the local boards. When we come to the Council, that little bait or that little temptation is taken away and the Honourable Minister, in defiance of the select committee, claims the aid of section 80C of the Government of India Act. Well, Sir, that aid is given to him. The select committee, in view of that compromise, rightly, wisely, with full knowledge and consciousness of the consequences that amendment by way of explanation would entail on these local boards, accepted that buildings shall still be excluded from the three-fourths that would be given to them.

The Honourable the PRESIDENT: May I ask whether the words "recurring" and "non-recurring" are defined anywhere in the Local Boards Act?

Mr. B. G. PAHALAJANI: They are not defined. We are all prepared, I believe my honourable friends on this side are prepared, to say that the whole Explanation may go. We are prepared to have the word "non-recurring" undefined and to have the Government to put an absurd interpretation that 'grants on buildings' are not 'non-recurring'. I know that Government cannot come to that conclusion and therefore Government want to make it clear, make sure, that non-recurring means everything else which is imaginable except the largest item that the local boards will have to incur expense on, namely, the cost of buildings.

The Honourable the PRESIDENT: Was this question or point, that what is non-recurring and what is recurring should be defined, and liberty should be left to the select committee to define that, taken up at the first reading?

Mr. B. G. PAHALAJANI: No, Sir; Government did not take it up and we also did not take it up.

Mr. C. M. GANDHI (Surat City): No question was raised about it.

The Honourable the PRESIDENT: Did the words "recurring" and "non-recurring" occur in the bill as it was introduced at the first reading?

The Honourable Dr. R. P. PARANJPYE: I would point out, Sir, that in the original bill the word "recurring" only was inserted and the word "non-recurring" was not there. In the select committee the members wanted to

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insert the words "recurring" and "non-recurring," and therefore to define the liability of Government as regards non-recurring amount, that explanation was put in.

The Honourable the PRESIDENT: I thank the Hon'ble Minister for the information.

Mr. B. G. PAHALAJANI: In the figures given by the Honourable Minister in charge to the Council yesterday in his reply showing that many of the district local boards will just be able to float above water, he omittod to take into consideration the amount of remissions on land revenue and therefore of local cess as well. He wanted to show that money which they would be getting by additional local cess, etc., would be enough for the purpose of introducing compulsory education within their areas. That was on theoretical assumptions of all assessments being realised, which in practice is not the case. I am not going into his figures, for this is not the time for it, but every one of us is convinced that the local boards and the municipalities will not be able to bear the necessary expenditure without substantial grants from the Government. I therefore say, as my honourable friend from Ahmednagar rightly said, that it is simply impossible to carry out this Act. I agree with my honourable friend from Satara who said that if the Government is going to give us a mere bill on paper, as I said on the motion for the second reading, then they can do anything they like. But if they want to give an effective bill, if the Government is serious in giving an effective bill to the people to whom my honourable friend the Education Minister appealed in touching terms yesterday, then let them do it well. If, Sir, my honourable friends representing the backward classes, my Maratha friends in the Southern and the Central Divisions, want to take the bill only for the considerations of obliging the Honourable Minister who appealed to them in touching terms, then let them take it. But, so far as this further charge is laid on the local board, I think that it is better to see that it remains on paper than that we should pass this clause and pass this Explanation. I will put it to my honourable friends here that clause 13 stands thus. The first clause now does not exist. The clause that has been read out to you is this:

"If the scheme is sanctioned the Government shall agree to bear half of the additional recurring and non-recurring annual cost of the scheme if the local authority is a municipality and two-thirds of the said cost if the local authority is a district local board, but the cost to Government shall not exceed half or two-thirds, as the case may be, of the scheme sanctioned, as it was estimated by the local authority."

The explanation given in the select committee's report exists. Against that, the Minister's new explanation, more detailed explanation, is for consideration. The other clause, sub-clause (2) exists. The only request from me and many of my honourable friends on this side of the chair will be that each part of the clause may be put to the vote separately, so that the Council may be seized of each part separately and vote accordingly.

The Honourable Mr. H. S. LAWRENCE: Mr. President, I do not want to say much about the Explanation, because I think it has attracted rather more attention and discussion than perhaps was due to it. But I wish to say a few words more, Sir, on the matter that was discussed in the general discussion yesterday about the two-thirds grant. I would like to give some account to the House why this clause to limit the liability of Government was inserted. The House is, I think, aware that some years ago Government undertook to give a grant-in-aid to the Bombay municipality to aid the extension of compulsory primary education. A scheme was put before Government in those days,

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about four years ago, which gave a certain programme of expansion and stated that the annual increased cost would be about Rs. 63,000 a year up to a certain limit. Government undertook to accept that scheme and they understood that their liability would be limited to the programme laid down. However, for various reasons, the cost of primary education in Bombay increased enormously and this undertaking given by Government at that time has been held to commit Government to their half share of the increased cost to the Bombay municipality. Now, it is to guard Government, that is to say, the general tax-payer, against responsibility for increases in excess of estimates of sanctioned schemes that this phrase "liability of the Government shall not exceed half or two-thirds, as the case may be, of the scheme as it was estimated by the local authority" has been put in. Yesterday it was found that the original wording was somewhat ambiguous stating that the cost to Government shall not exceed half or two-thirds. That led certain members of this House to understand that Government had determined that they would in no case pay more than the half or the two-thirds as the case may be. That ambiguity has now been corrected. It was never the intention of Government to make that half or two-thirds the maximum that they should pay. It was obviously intended by Government that these amounts should be the minimum. That ambiguity, I hope, is completely cleared away by the substitution of the words "liability of Government" for the words which originally stood "cost to Government." I hope, Sir, every one now understands that these words "two-thirds" represent the legal liability of Government and that they do not interfere with or restrict the discretion of Government to grant sums in excess of that amount.

The Honourable the PRESIDENT: May I ask if, in the clause as it was, the word 'recurring' alone existed? Now in the amended clause the words are 'recurring and non-recurring.' You exclude by the Explanation the cost of construction of buildings, for it is non-recurring.

The Honourable Sir CHIMANLAL SETALVAD: Sir, construction of a new building for a school does not recur every year at all. It is non-recurring. But construction of buildings is not the only non-recurring charge. There may be other non-recurring charges. What is attempted to be done is this that Government will be liable for both recurring and non-recurring charges, but as regards such expenditure as can be classed as non-recurring Government want to exempt the cost of construction of buildings therefrom.

The Honourable the PRESIDENT: For the purpose of this clause, taking the words as they stand, there are only two heads of expenditure, recurring and non-recurring. You have excluded the cost of construction from non-recurring; then it must go into the other, *i.e.*, recurring.

The Honourable Sir CHIMANLAL SETALVAD: It cannot go into the other if it is not recurring. It does not recur in the case of buildings. It cannot fall within the expression of recurring at all. It is excluded therefrom by the very word.

The Honourable the PRESIDENT: Naturally it does not fall in the class of recurring. It does fall in the class of non-recurring.

The Honourable Sir CHIMANLAL SETALVAD: What I submit is, this is not a matter which, as the bill stands, can be adjusted by departmental arrangement at all.

*After recess.*

The Honourable the PRESIDENT: Order, order.

The Honourable Sir CHIMANLAL SETALVAD: May I make a few observations, Sir? During this discussion various honourable members complained that the attempt, by this Explanation, was on behalf of Government, to whittle down the provisions of the Act and to wreck the working of the programme under which compulsory education is desired to be carried out. Sir, I regret that these remarks have been made because they are without any foundation. If Government had no desire to give compulsory primary education, they need not have brought the bill. It is not correct, therefore, to charge them with a desire to wreck the progress of compulsory primary education.

Then it is said "Oh, you have brought the bill quite all right, but now you are inserting provisions there which are rendering it nugatory." That, Sir, is not the correct description of the situation, and I desire honourable members, before they make up their minds, to see what the real issue is. The Government proposal is that they should not be called upon, that the general provincial revenues should not be called upon, to bear any proportion of the costs of construction of buildings in connection with the introduction of compulsory primary education. Now it must be admitted that the desire on all hands is to bring in as many children as you can of school-going age into the schools as speedily as possible. That must mean necessarily a large increase everywhere in the number of schools and the staff; which must mean again, that in the salaries of teachers and other maintenance charges a very large amount will have to be spent. Along with that, if we have also considerable expenditure incurred on the construction of buildings, the scheme will become unworkable both for local bodies and Government, because, after all, honourable members must remember that the resources both of the local bodies and of the provincial revenues are limited. There are not unlimited funds to be drawn upon. You will have to cut your coat according to your cloth, and therefore if you spend money on construction of buildings, you will be spending less on the expansion of compulsory primary education. Take, for instance, the way in which expenditure has been incurred in the past on the construction of buildings. The buildings constructed on the standardized plan cost roughly about Rs. 100 a pupil. If you want a school for one hundred pupils, you will have to spend about, say, ten thousand rupees. In some places, school buildings have cost sums amounting to Rs. 18,000 to Rs. 20,000. Now the time has come when if we want speedy expansion of primary education, we have to revise our ideas about school buildings. Neither the provincial revenues nor the local bodies can afford to have buildings in the manner you had them in the past. You have, therefore, at the moment to satisfy yourselves with housing your schools at the lowest cost. As it has been suggested, you can have your schools in chavdis, temples, out-houses, perhaps in some places even under trees. There is nothing wrong in it. If you want to bring in all pupils, if you want to bring all children in for compulsory primary education, and if your funds and resources are limited, the question is on what you wish to use your available resources. You cannot have an extension of primary education and the construction of school-buildings at the same time. You have not got unlimited resources. Do you want to bring in more children to your schools or you want to provide school-buildings only? The Government want to discourage the idea that is prevalent of putting up buildings before you start schools. Start your schools in such places as you can find in villages, go on with them, and later on buildings

[Sir Chimanlal Setalvad]

will come in. Therefore, I submit that it is not correct to charge Government with any desire to whittle down or retard the progress of primary education. Government are as much anxious as anybody else to make the scheme a success. Conserve your resources and those of the Government for enlarging your school population as early as possible. That is the whole object and aim of the amendment. In many places there are not even at present school-buildings, and schools are housed in rented buildings. Why should you not continue in that manner? When there are any special cases where buildings are not available even for rent, in those special cases there is nothing to prevent the Government to give grants for construction of school-buildings if it is desirable to do so. What I say is that in the interest of local bodies themselves, and in the interest of primary education itself, you should not commence with the programme of construction of school-buildings. All that I want to impress on the House is the relative importance of the two essentials. If you spend your resources on the construction of school-buildings, then you will not have money for your other purposes. A time will come when your resources will expand, and in course of time you can have your school-buildings. As it is not desirable to spend your resources on buildings, the Government do not want to undertake any legal liability as regards grants for school-buildings. I can well conceive of cases where it is impossible to find any buildings rented or otherwise in which you can house your school. They will be exceptional cases. If that is brought to the notice of Government, there is nothing to prevent them from considering such cases on their merits. The main object is that, if you insist on the construction of school-buildings, it will retard the extension of primary education.

Mr. C. C. HULKOTI: I move the closure, Sir.

The Honourable the PRESIDENT: I accept it.

The Honourable Dr. R. P. PARANJPYE: Sir, the issue in this clause is quite clear, and the Honourable the General Member has put it before the House that in our attempt to introduce compulsory primary education it is not desirable to give predominant importance to the construction of school-buildings, because the construction of buildings will assume a predominant position. Take, for instance, the programme chalked out by the Compulsory Education Committee. It contemplates bringing in something like six lakhs of new children into schools. The housing of the children in the schools will, at a very modest estimate, cost Rs. 20 or Rs. 30 per head; and the total for the whole number will come to about two crores. In addition to the recurring expenditure, the local authorities will have to find something like two crores, during the course of 10 years. Over and above their recurring expenditure, they will have to find nearly twenty lakhs of rupees every year, and Government will have to give a large part of this apart from the grant towards the cost of education. If we are to introduce this further charge, the liabilities of Government will be greatly weighted. I might mention that in the bill as brought forward originally, the Government intended to contribute this proportion of recurring expenditure only. In the select committee it was further urged that the non-recurring expenditure should also be included, but on explaining the situation the select committee practically unanimously agreed that our programme should not be weighted with further responsibility of building houses for schools. It was pointed out that in the recurring cost an item may be put in by way of rent for buildings, if the local authority

[Dr. R. P. Paranjpye]

secures satisfactory buildings for housing their schools and has got to pay rent for those buildings. (An Honourable Member : You have not said anything about rent.) Rent is obviously a recurring charge, and I do not know if that requires any explanation. If the local body for the housing of a school has to rent any buildings, that rent can obviously appear among the recurring charges and Government will pay its share of that rent. The question arises then, when the local body thinks it necessary to put up a building, what is to happen ? The Explanation makes it clear that Government will not be able to bear the cost of construction of the building. My honourable friend from Ahmednagar raised an interesting point, namely, supposing Government does not give anything towards the cost of building and the local body builds this building from its own resources entirely, whether Government will allow among the recurring charges an assumed rent for this purpose. Although I am not able at present to give a definite answer to this question, I may say that personally I shall be glad to put this case before Government for their consideration. I do not make any promise, but I think it is a fair and reasonable proposition that, if a local body has to provide a building by means of sums on which Government cannot pay anything, an assumed rent should be included among the recurring charges. Supposing, for instance, a school contains 50 children, a rent of say Rs. 10, Rs. 15 or Rs. 20 may very well be charged for rent, whether the local body has itself built it or somebody else has built it and the local body has rented it. It is a fair proposition to make, and a reasonable proposition too. I am not at present absolutely free to give any definite undertaking in this matter, but all that I can say is, I believe that even under the Grant-in-aid Code Government does allow assumed rents of this nature. In fact in the institution with which I was connected, the Fergusson College, the college was built without receiving any grant from Government, and in fact the buildings of several other institutions, I believe, have been built in this manner. The Fergusson College pays a certain amount of rent to the Deccan Education Society, which is the master of that body, and this rent is allowed for in the grant, and I believe in certain other institutions also a similar state of things is allowed. I do not know whether under the constitution of the local bodies such an assumed rent is payable. All that I can say is that I shall undertake that the question will be referred to Government for consideration. In any case, Sir, there is another alternative. This is only an assumed rent, and if the local body does not have any building, it can get somebody to construct the building and pay him proper rent, and proper rent I am certain will come under the recurring charges. The question is whether it is possible to get people to build in small villages suitable school houses. As my friend the Honourable the General Member has stated, we do not want to insist on special buildings for the schools as far as possible. I may assure honourable members that the department will not look too closely into the kind of accommodation provided when the schemes are put forward before Government, because at present my friends of the Education Department are fairly convinced that rather too much money has been spent upon buildings in the past, and if all that money had not been spent on pretentious buildings, and people and Government had been content with cheaper buildings, and some of that money had been spent on education, it is possible that in the past education would have progressed better. It may be that in the past the cost of buildings was less, and money could be borrowed at cheaper rates.

[Dr. R. P. Paranjpye]

Government have already agreed to bear their share of a good many of the recurring charges, and, mind you, those recurring charges were put in the bill at the special instance of the select committee. Well, Government want clearly to get out of the liability to meet these amounts. People and Government have been accustomed to expensive buildings and that idea has to be fought against, and only by putting a distinct clause in this bill that "non-recurring charges" will not include cost of construction of buildings we can proceed further. We have only a certain amount at our command, and do you think that you can get better results by getting more children into schools or by providing better buildings? Putting the matter quite straightforwardly I think the answer to that is that for the moment we shall do without suitable buildings; we shall even follow our ancient methods and shall conduct schools even under the shade of trees or out-houses or in temporary structures. All these things could be done, and we ought not to think that a school means, first of all, a suitable building. That idea has to be got rid of. My honourable friend has said that in villages there are several broken down houses. If repaired they can be made tolerable and useful for schools. All these things could be done before you need enter on any construction of new buildings. If all these things are done, you will find that the greater portion of your schemes will be managed without your entering into the cost of buildings. In any village where people want a school it is possible that the villagers may give free labour for the construction of temporary buildings. They often do that. I know an instance where the villagers who could not give money gave labour free for the purpose of constructing a building. If the villagers are keen, you will find that they will come forward and build a temporary building for this purpose. In any case I do not wish the Council to clog our future progress by insisting upon buildings. The further point mentioned by my honourable friend from Ahmednagar is a point which I shall put for consideration before Government and in the actual administration of this clause I will see whether anything can be done. I hope, therefore, that the Council will accept the clause. The clause, as I propose to amend, only makes evident what was left to be inferred. In the Explanation, according to the select committee's report, the buildings were excluded. I only want to put in the specific details—all the kinds of expenditure which have got to be met when a school has to be started. Furniture, a table and a chair, books, maps, slates, a blackboard, and such like things are absolutely necessary before you can start a school. But the other things, particularly the buildings, have got to be discarded. There was a question in the select committee whether the rent of the land ought to be entered in it. That is obviously recurring expenditure, and provided it is reasonable, it will come in as part of the recurring expenditure. I do not wish members of this Council to take an unreasonable attitude. We are all agreed that it will be admirable for a school to be housed in a suitable building, but from a practical point of view it is an impossibility. It would land us into financial liabilities which even the willingness of this Council to tax itself for educational purposes will not meet. Therefore, I put it to the Council whether, by insisting upon this clause, they will run the risk of having no bill at all. That is the point before the honourable members of this Council, and I wish they would consider it seriously before voting on it.

Mr. C. M. GANDHI: I request, Sir, that the clauses be put separately.

The Honourable the PRESIDENT: That is what I was going to do. I am going to put first the redrafted clause, and then the Explanation. I must

[The President]

adopt that course whenever I find that the House would otherwise be embarrassed. I am now going to put clause 13 (1) without the Explanation.

The Honourable Dr. R. P. PARANJPYE: I want to move another amendment at the end of the clause.

The Honourable the PRESIDENT: The Minister may move it afterwards. Clause 13 (1) as redrafted reads as follows:

"If the scheme is sanctioned, the Government shall bear half of the additional recurring and non-recurring annual cost of the scheme if the local authority is a municipality and two-thirds of the said cost if the local authority is a district local board; but the liability of the Government shall not exceed half or two-thirds, as the case may be, of the scheme sanctioned as it was estimated by the local authority."

Clause 13 (1) as redrafted ordered to stand part of the bill.

The Honourable the PRESIDENT: Now, we come to the Explanation to that clause. It is not in proper form. The amendment will be:

"In the explanation clause of clause 13 (1), after the words 'non-recurring cost' add the words 'shall be deemed to include only the cost of maps, books, slates, writing materials teaching apparatus, and school furniture, but.'"

Amendment put. House divided. Ayes, 27; Noes, 34. Amendment negatived.

*Division No 8.*

**Ayes.**

ADDYMAN, Mr. J.
BELL, Mr. R. D.
BOLE, Mr. S. K.
BULLOCKE, Mr. A. GREVILLE
DABHOLKAR, Mr. V. A.
DWARKADAS, Mr. KANJI
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
HATCH, Mr. G. W.
HAYWARD, The Hon'ble Mr. M. H. W.
HEPPER, Sir LAWLESS
HOOD, Mr. A. J. F.
KANGA, Mr. J. B.
LAWRENCE, The Hon'ble Mr. H. S.
LIGADE, Mr. S. P.
LOBY, Mr. F. B. P.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MURPHY, Mr. S. J.
MUTALIK, Sardar V. N.
PARANJPYE, The Hon'ble Dr. R. P.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SETALVAD, The Hon'ble Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY
THOMAS, Mr. G. A.

*Tellers for the Ayes:* Mr. S. J. MURPHY and Mr. J. ADDYMAN.

**Noes.**

ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BIRADAR, Sardar M. A.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHITALE Rao Bahadur G. K.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DUBHASHE, Mr. SHANKAR BALKRISHNA
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GODBOLE, Dewan Bahadur K. R.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KASSIM, Mr. G. H.
LALBHAI AMBARAM, Mr.
LALJI NARANJI, Mr.
MANSURI, Khan Saheb A. M.
MOHOMED SALAHUDDIN K., Mr.
MOTIRAM, Rao Saheb RUPCHAND
NIMBALKAR, Mr. K. B.
PAHALAJANI, Mr. B. G.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SURVE, Mr. A. N.
TRIVEDI, Mr. G. B.

*Tellers for the Noes:* Mr. B. G. PAHALAJANI and Rao Saheb D. P. DESAI.

The Honourable Dr. R. P. PARANJPYE: I would only point out, Sir, that if the Explanation is rejected, Government would have to seriously consider its position in this matter.

Question put: That the words of the Explanation in clause 13, sub-clause (1), lines 7 to 8, namely, "In this section non-recurring cost shall not be deemed to include the cost of construction of school buildings," do stand part of the clause.

House divided. Ayes, 25; Noes, 35. Explanation part ordered to be left out.

*Division No. 9.*

**Ayes.**

ADDYMAN, Mr. J.
BELL, Mr. R. D.
BOLE, Mr. S. K.
BULLOCKE, Mr. A. GREVILLE
DWARKADAS, Mr. KANJI
GHULAM HUSSAIN, The Hon'ble Khan Bahadur SHAIKH
HATCH, Mr. G. W.
HAYWARD, The Hon'ble Mr. M. H. W.
HEPPER, Sir LAWLESS
HOOD, Mr. A. J. F.
KANGA, Mr. J. B.
LAWRENCE, The Hon'ble Mr. H. S.
LOBY, Mr. F. B. P.
MEAD, Mr. P. J.
MEHTA, The Hon'ble Mr. C. V.
MURPHY, Mr. S. J.
MUTALIK, Sardar V. N.
PARANJPYE, The Hon'ble Dr. R. P.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Hon'ble Sir IBRAHIM
ROTHFELD, Mr. O.
SETALVAD, The Hon'ble Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY
THOMAS, Mr. G. A.

*Tellers for the Ayes:* Mr. S. J. MURPHY and Mr. J. ADDYMAN.

**Noes.**

ADHAV, Mr. P. N.
BATLIWALA, Dr. S. S.
BHATE, Mr. G. C.
BIRADAR, Sardar M. A.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHITALE, Rao Bahadur G. K.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DUBHASHE, Mr. SHANKAR BALKRISHNA
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GODBOLE, Dewan Bahadur K. R.
GULAMHUSEN, Mr. SULTANALI SALEMANJI
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KASSIM, Mr. G. H.
LALJI NARANJI, Mr.
LIGADE, Mr. S. P.
MANSURI, Khan Saheb A. M.
MOHOMED SALAHUDDIN K., Mr.
MOTIRAM, Rao Saheb RUPCHAND
NIMBALKAR, Mr. K. B.
PAHALAJANI, Mr. B. G.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PAWAR, Shrimant J. A.
SAHERWALA, Khan Saheb I. A.
SALGAR, Mr. R. G.
SURVE, Mr. A. N.
TRIVEDI, Mr. G. B.

*Tellers for the Noes:* Mr. B. G. PAHALAJANI and Rao Saheb D. P. DESAI.

Rao Bahadur R. R. KALE (Satara District): May I be allowed to make a request to the House, Sir? There is a lecture this evening of the Right Honourable Sastri, to which honourable members of this Council are invited. Would you be pleased to adjourn the House at 6?

The Honourable the PRESIDENT: Well, I must consult the House. If the House as a whole wants, we will adjourn. What has the Honourable the Leader of the House to say? When intimation was given to me about this,

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I said it should be communicated to the Leader of the House and the Minister who is in charge of the business. It is for them to tell me what their views are. What is the general sense of the House on this side ?

Dr. S. S. BATLIWÀLA : To adjourn at 6.

The Honourable the PRESIDENT : What is the general sense of the House on the other side ?

Mr. F. B. P. LORY : No.

The Honourable the PRESIDENT: Very well ; then we must go on.

The Honourable Dr. R. P. PARANJPYE : Mr. President, I beg to propose :

"That in sub-clause (2) of clause 13, the word 'right' in line 9 be left out ; to insert instead the word 'claim'."

Mr. C. M. GANDHI ( Surat City ) : I rise to a point of order, whether the amendment could be moved without notice.

The Honourable Dr. R. P. PARANJPYE : If you do not mind it, I would point out that the notice is there.

Mr. C. M. GANDHI : Yes ; I am sorry.

The Honourable the PRESIDENT : But apart from that, how often have I said that in the case of really important amendments I need not be strict about notice ! I think this amendment is really verbal.

Mr. B. G. PAHALAJANI ( Western Sind ) : If "right" means "legal right" and "claim" means something less than that, then I think the word "right" must prevail. If the "right" is legal right and "claim" is something less than that, I think the House should insist on having "right."

The Honourable Mr. M. H. W. HAYWARD : "Claim" is less than "right."

The Honourable Dr. R. P. PARANJPYE : When I proposed the amendment, I might have made an explanation. At present there is no right whatsoever. Under the Grant-in-aid Code, Government can grant it or withhold it ; and therefore the word "claim" is put in. This is the old liability, according to the administrative order of Government.

Rao Saheb D. P. DESAI : Sir, up to this time Government were managing the whole of the Educational Department.

The Honourable Mr. M. H. W. HAYWARD : I submit, Sir, the word "claim" is important particularly from the point of view of those who are opposing it. This is a clause to protect their "claims" to grants-in-aid. But, if the word "rights" is retained, then the only thing protected will be their legal rights. At present they have got only claims and no legal rights. Therefore, unless we make this alteration, they will have no protection at all.

The Honourable the PRESIDENT : Is the House to understand that the 80 per cent. which has been given up to now by Government will stand?

The Honourable Mr. M. H. W. HAYWARD : It is a claim only, it is not a legal right.

The Honourable the PRESIDENT: I am asking that the House may be clearly cognizant of the facts and say whether the word "claim" or the word "right" is the more appropriate term. The facts as stated are, at present and up to now the local boards have been getting 80 per cent. The intention of this bill, says the Minister, is not to interfere with that. Now the question is, are they entitled under any law ? (Voices from Government Bench : No, no).

The Honourable Sir CHIMANLAL SETALVAD : It is a matter of the discretion of Government.

The Honourable the PRESIDENT : If it is within the discretion of Government, why is a clause necessary to provide that nothing in this section shall affect that claim ? Government may or may not grant ? I ask on a point of order.

The Honourable Sir IBRAHIM RAHIMTOOLA : May I explain, Sir? Under the Grant-in-aid Code certain grants are payable to local bodies, both municipalities and district local boards, for the promotion of primary education. These grants are not binding on Government. It is not a right which can be enforced, but it is in the nature of a grant. Government have all these years been regularly paying them. The intention, as I understand it, is that so far as the grants which are being made at present are concerned, they will continue to be paid. They are based on a different basis altogether and refer to the ordinary progress of primary education. This bill makes a difference and provides for introduction of free and compulsory primary education. In regard to the additional expenditure involved in consequence of the new departure, an obligatory duty is being imposed upon Government to pay half or two-thirds, as the case may be, of the additional cost. It appears to be apprehended that the result of the passing of this bill will be that further grants towards expansion of primary education will not be made. I do not think that will in any way affect the present arrangement with regard to Government grants. That is clearly the position as the facts stand at present. A new feature is being introduced by this bill.

Mr. C. M. GANDHI (Surat City) : I only want to say, Sir, one word. As I interpret this clause, it means that Government is now recognising by this clause the right of local authorities to what they have been receiving up to to-day and that Government having recognised that right nothing shall affect that right hereafter. So, what was in the nature of a claim of an inchoate right which might ripen into a right has now been recognised as a completed right. It means that Government now recognises the right of local authorities to that annual grant, and says nothing shall affect it. If that is the meaning of it, then it might stand.

Rao Bahadur R. R. KALE (Satara District) : Sir, in fact when this clause was debated upon at the first reading, it was pointed out to the Honourable Minister in charge that the clause which now fixes the element of proportion is certainly regarding the amount that the local bodies would get. Then the Honourable Minister made it quite clear in his reply at the first reading that Government wanted to maintain the present grant and it is only with regard to the additional expenditure that may be incurred hereafter that this proposal was to apply. Then, when the matter came before the select committee, it was pointed out that in the clause itself it may be expressed in that manner, that is to say, the right, whatever may have been the claim or the demand that existed beforehand, should be embodied as the right in a new clause, and we pointed out that the clause itself should be so worded as to make it clear that whatever is being granted hitherto, in respect of expenditure as it exists on the day that this Act comes into force, remains and, with regard to the expenditure that we shall incur hereafter, the proportion will be so and so. That was what we asked to be stated in the clause, but it was thought that the same purpose would be served by adding a proviso and therefore the proviso is added.

The Honourable the PRESIDENT: But if no right is claimed? A right means that which is secured by law and can be enforced by law. I believe it is agreed that there is no law by which it becomes a right.

Rao Bahadur R. R. KALE: We came to demand it as a right when this new scheme was being discussed. It creates a liability to a limited extent, so it is a kind of right. We want it to be laid down clearly in the Act itself; otherwise it will be left to the discretion of the Government. The word 'right' is appropriate, because Government have recognised the need to change what was a claim into a right.

Mr. J. B. KANGA: Sir, I wish to draw the attention of the House to this: sub-clause (2) runs as follows:

"Nothing in this section shall affect the right of any local authority to any annual grant which at the time this Act comes into operation is being paid to it by the Government for purposes of primary education."

Now, no right exists. There is no statute and no contract with Government giving any such right. If a local authority were to file a suit, it would not succeed, because this sub-clause does not create a right and there is no other law giving it the right. The annual grant which is being paid is a gift. My honourable friend for Satara (Rao Bahadur R. R. Kale) stated that the intention was to create a right. All I say is that by this sub-clause a right is not created. I think, therefore, in the interest of primary education, the word 'claim' should be substituted for the word 'right.'

The Honourable the PRESIDENT: If the word "claim" be accepted by the Council and inserted in the clause, it will be a pledge or undertaking in the nature of a moral obligation on the part of Government. That is what I presume the Honourable Minister means: I wish to have it made clear.

The Honourable Dr. R. P. PARANJPYE: I have already explained it at the first reading.

The Honourable the PRESIDENT: That is to say, Government undertakes to continue as a moral obligation. This understanding will go into the record of the official proceedings of the Council.

Amendment carried.

The Honourable Dr. R. P. PARANJPYE: Sir, I move:

"That at the end of sub-clause (2) of clause 13, the following proviso be added:

'Provided that if the Government consider that the educational fund of any local authority has been or is about to be misused or misapplied, they may call upon such local authority for an explanation of such misuse or misapplication; and if not satisfied with the explanation given may make such reduction in the grants payable to such local authority as they deem proper.'"

This amendment I move in order to safeguard the position of Government under certain circumstances. At present Government have retained no control except by means of the bludgeon clause. The only step Government can take now in cases where a local body misuses or misapplies the grant given by Government is the final bludgeon clause. But when it is considered desirable, the Government should have the right to call for an explanation and to use this first kind of pressure by cutting off the grant. It is a well recognised fact that such a remedy would often prove very effective, before Government seeks recourse to the bludgeon clause. I may mention that even in England, if local bodies misuse grants, the application of this kind of pressure by reduction of grants has proved effective in bringing to their senses the local bodies to some extent. Government do not wish to proceed with the final bludgeon clause, but would like to have a remedy of this nature. I need

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not explain to you in what way misuse or misapplication can be made, because there are several ways. Government may have, for instance, paid money to a particular local body for conducting a particular school for a particular community—say a central Mahomedan school—and the local authority may take the money and may not make use of it for the particular purpose. If for this single misapplication Government were to suspend the local body, it would be too heavy a stroke. If without suspending, this reduction of grant is made, it might bring the local authority to the proper way. I hope, therefore, the Council will accept the proviso.

Dr. S. S. BATLIWALA (Bombay City, North): Mr. President, I heartily support the amendment. This clearly provides against the fears expressed by Government on the occasion of the passing of the explanation clause in clause 13 of the bill, when Government feared that grants made by Government for compulsory education will be misused and misapplied, if they permitted the deletion of the explanation clause of clause 13. I submit, Sir, that Government will be amply fortified with powers against the misuse or misapplication of the funds by the present amendment and their fears were groundless. I heartily support the amendment.

Amendment carried.

Rao Saheb D. P. DESAI (Kaira District): Sir, I beg to move:

"That at the end of sub-clause (2) of clause 13, after the word "education" in line 11, add the following words, namely:

'and in addition to this amount the Government shall agree to bear in the proportion mentioned in sub-section (1) of this section any increase in the recurring and non-recurring annual cost due to normal expansion of primary education within the area subject to the local authority'."

Mr. President, the right of the local boards for the two-thirds grant under sub-clause (1) of clause 13 accrues only if the scheme of compulsion is framed and introduced. But if a scheme of compulsory education is not accepted by Government, or is not framed by the local board, or if the funds with the Government will not permit of such a scheme, then two-thirds of the total expenditure which might be incurred for further expansion of primary education or for meeting the increasing expenditure under the time-scale of pay granted to teachers by Government, will not be met by Government if the clause is allowed to stand as it is.

The Honourable the PRESIDENT: But does not the proposal mean an increase in the charge on public revenues and therefore *pro tanto* a charge requiring the previous sanction of His Excellency the Governor under section 80C of the Government of India Act.

Rao Saheb D. P. DESAI: No, Sir. As it is, the expenditure on education is progressive: every year it is added to in the proportion of the increase in the pay that is given to the primary schoolteachers under orders passed by Government and when the management was under Government control. Supposing, Sir, that the scheme of compulsory education is not introduced in any district, then in that case Government will not come forward to bear any proportion of the increase in expenditure that would be incurred.

The Honourable the PRESIDENT: But the honourable member says "in addition to this amount." That means in addition to the 88 per cent. which is now being given.

Rao Saheb D. P. DESAI: Yes.

The Honourable the PRESIDENT: That is an increase in the charges and therefore a fresh charge requiring sanction in respect of the increased amount.

Rao Saheb D. P. DESAI: Suppose at this time Rs. 4,50,000 is borne by Government in the cost of education in a particular district. If the compulsory education scheme is introduced, then the Government will bear two-thirds of the extra expenditure involved by the scheme *plus* Rs. 4,50,000. But if no compulsory education sheme is introduced or if a scheme is not accepted by Government, then no grants for any increase in expenditure in future years will be given by Government.

The Honourable the PRESIDENT: Does the honourable member mean they will have to pay only 88 per cent. ?

Rao Saheb D. P. DESAI: 88 per cent. of the expenditure when the Act comes into operation. But according to my amendment they will get not only that 88 per cent., but also two-thirds of any increase in expenditure.

The Honourable the PRESIDENT: Then the point is you get two-thirds of the new expenditure *plus* 88 per cent. Is it not ? That is, if compulsion is introduced. If compulsion is not introduced, you get only 88 per cent.

Rao Saheb D. P. DESAI: 88 per cent. of the expenditure at the time, that is, at the date of the coming into operation of this Act, will be given, but no proportion is provided for for any additional increase. This is how I interpret the sub-clause (2).

The Honourable the PRESIDENT: The honourable member may move his amendment, but I shall rule it out of order if in the course of the debate I feel satisfied that there is an increased charge on the public revenues proposed by the amendment requiring the statutory sanction.

Rao Saheb D. P. DESAI: I simply move the amendment.

The Honourable Sir CHIMANLAL SETALVAD: I submit, Sir, that the proposed amendment is out of order, because it clearly attempts to impose an additional liability on the provincial revenues which is not existing at present. It says "in addition to this amount, Government shall agree to bear in a certain proportion any increase in the recurring and non-recurring annual cost".

The Honourable the PRESIDENT: Am I right in saying that "nothing in this section shall affect the claim of a local authority" means that Government shall go on giving 88 per cent?

The Honourable Sir CHIMANLAL SETALVAD: At present no legal liability is imposed on Government with regard to the ordinary expansion of primary education. The present policy will not be affected by this legislation; that is all.

The Honourable the PRESIDENT: What the mover of the amendment says is, when the Act comes into operation, it may be for instance Rs. 2,500, but afterwards if there is any expansion, only Rs. 2,500 will be given.

The Honourable Sir CHIMANLAL SETALVAD: If there is any progressive increase in the normal expansion, that will be dealt with under the grant-in-aid system, but what he wants now is to make it a legal obligation.

The Honourable the PRESIDENT: The amendment seeks to impose a charge by making that legally obligatory which the Government is, if at all, only morally bound to do, and that would be contrary to the decision arrived at by the House.

Rao Saheb D. P. DESAI: I wanted to make it clear.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, the scheme of this Act and that of the report of the Primary Education Committee was the introduction of compulsory education and the expansion of primary education. Perhaps some area may not be quite ready for compulsory education all at once, and therefore the recommendation was that in such cases the first thing to be done is the expansion of primary education, in order to make it available to all classes. The point is that the moral or the legal liability of the Government is placed in these two ways. Suppose we are spending out of this year's budget Rs. 67 lakhs for primary education. Government say "We give you our word that we will give you these Rs. 67 lakhs in this year whether you introduce this scheme of compulsory primary education or not. If we approve of a scheme and you introduce it, then we will give you two-thirds; the rest you will have to bear. But no provision exists in the Act, neither is there any legal liability on the Government for the normal expansion of primary education. The present amendment, which is now sought to be put in, meets this position, which has been the position of Government for a very long time; it is a very long time ago that the Leader of the House enunciated a policy of expansion of primary education, namely that in all villages with a population of 1,000 there shall be a school. Speaking from memory, I think there are about 350 villages in this Presidency with a population of over 1,000 which have not got a school at all. Now, because we have carried the other amendment against their wishes, if Government wishes to wreck this bill by not moving the third reading, or by any other means, we want that that policy enunciated by a high authority and supported by the Governor shall be carried out. In order that that may be done, we want this principle to be included in the Act, and if that is done, I think it does not impose any further liability on the Government than what they have already undertaken to do. It may happen that all the local areas are not ready for compulsion. For instance, the Ratnagiri district, which is a very poor district, may not go in for compulsory education. We know that there is opposition to compulsion in Sind. Still, they must have the normal expansion of primary education in the first instance; because the whole secret of the Primary Education Committee's report is this, that compulsion is a bad thing, and might not be appreciated all at once; therefore bring primary education as near as possible to the people, let them appreciate it for some time, and then compulsion can be introduced. If the amendment is not accepted, the adoption of that course will not be possible. Government might say "Where is the provision in the Act for it? We have not provided for the normal expansion of primary education; we have only given our word for compulsory education." They might say that they have no funds. Our point is that Government has been given Rs. 1¼ crores in the way of taxation. From various points of view it may not be possible to go in for a very big scheme of expansion; and therefore we entreat Government members to say that they shall give us the same grant-in-aid as they have been giving up to now, because when there is no compulsion, local bodies may not be inclined to pay the one anna cess, our resources may not be strengthened, and we may not be in a position to bear any liability. The Central Division has been crying

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itself hoarse for the expansion of primary education. Various applications have been sent—I do not know how far public opinion supports them. Even if the Act is not passed, they have a right to a scheme of expansion of primary education. That is the first step, and I do not think that it places any charge upon the Government which it has not borne so long.

The Honourable the PRESIDENT: The bill is for compulsory education.

Mr. C. M. GANDHI: Not only for compulsory education but for compulsory elementary education.

The Honourable the PRESIDENT: I was just coming to it. The bill is for the purposes of providing for the management and control of compulsory elementary education, but as regards questions of general policy, it is not in order to argue on and ask for a declaration of policy now when we are dealing with the clause as it stands before us. I think I have striven (and I believe successfully) to bring about a rapprochement between the honourable member Rao Saheb D. P. Desai and the Government bench. The point at issue is now very much narrowed down.

The Honourable Sir IBRAHIM RAHIMTOOLA: May I say, Sir, that the position of Government is this, that so far as the expansion of primary education is concerned, the policy which has been pursued in the past will be continued? There is, as has been clearly pointed out, no legal obligation upon Government and no legal obligation can be accepted by Government on the present occasion. The amendment proposes to make it a legal obligation which Government cannot accept. There is going to be no change in the policy of Government so far as expansion of primary education is concerned. Without accepting any legal obligation I may state that the policy which has been pursued so far will be continued.

The Honourable the PRESIDENT: I must decide that the form of this amendment is such that it imposes an obligatory charge on the public revenues, and I rule it out of order.

Clause, as redrafted and amended, ordered to stand part of the bill.

Clause 14 (*Duty of local authority*) ordered to stand part of the bill.

Clause 15 (*Modification, etc., of scheme after sanction*) ordered to stand part of the bill.

Clause 16 (*Inspection of schools. Returns*).

(1) Every approved school and every primary school maintained or aided by a local authority shall be open during school hours to inspection by the inspecting officers of the Government and of the local authority, for the purpose of ascertaining—

(*a*) whether instruction is given as prescribed or sanctioned under section 17;

(*b*) whether any instruction of a pernicious nature is given;

(*c*) whether the provisions of the Act for the compulsory attendance of children are being carried out; and

(*d*) whether the prescribed registers and records are being maintained.

(2) The school board in respect of any such school maintained by a local authority, and the manager of any other such school shall furnish such returns and supply such information as the Government or the local authority may from time to time require.

The Honourable Dr. R. P. PARANJPYE: Mr. President, the amendment which I wish to move is as follows:—

"At the end of the words 'Government and of the local authority' in line 3, clause 16, add the words 'in particular.'"

Clause 16 mentions in detail certain purposes of inspection. It was pointed out that occasionally cases might arise in which the inspector would like to get

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some other information and if these clauses are exhaustively enumerated the inspector would be debarred from doing that. For instance, a question might arise as to want of facilities given by a particular school to students of the depressed classes. These four clauses enumerated will not allow the inspector to ask questions about that and he might be told to mind his own business and that the question cannot be asked. What I intend to point out, therefore, is that the inspection is generally for that purpose, but, in order to safeguard the inspectors from being told to mind their own business when they ask any questions which do not come within the four corners of these four clauses, I wish to put in the words "in particular." I might mention that I am doing this at the suggestion of an honourable member of this House who particularly wanted that the local board and private schools should have a fair liberty of action themselves, and in particular it was considered that if an approved school does not receive grant from Government, the inspecting officers should have no right to go into its accounts. We never contemplated that, if a school does not receive a Government grant or a local board grant, then an inspecting officer need bother about the accounts of that school, but at any rate in order to safeguard exceptional cases of that kind, I would like to put in the words "in particular" after the words "local authority," so that it would read "Every approved school and every primary school maintained or aided by a local authority shall be open during school hours to inspection by the inspecting officers of the Government and of the local authority, in particular, for the purpose of ascertaining" and so on. I hope the Council will accept the amendment.

Amendment carried.

Mr. B. G. PAHALAJANI (Western Sind): Mr. President, the amendment which I wish to move runs thus:—

"That sub-clause (*b*) of clause 16 (1) be left out."

The word "pernicious" is nowhere defined in this bill and it is incapable of being kept in the clause unless it is clearly defined....

The Honourable the PRESIDENT: What does the Oxford Dictionary say?

Mr. B. G. PAHALAJANI: I do not know what the Oxford Dictionary says about it, but, so far as this bill is concerned, the term "pernicious" itself is so indefinite in this clause that it will be liable to place every institution at the mercy of a particular individual who at a particular time is the inspector of schools. Therefore, I submit, Sir, that in a legal enactment no such word ought to be inserted or ought to exist, as the schools are to be approved schools, schools that have to pass the test of being recognised by the local authorities who will have the power of looking into the nature of the books to be prescribed as text-books and the nature of the instruction given. The power should be given to the school boards or to the local authorities. I mean that power of rejecting pernicious books should vest in the discretion of the local authority itself and not given to an inspecting officer, whose views may from time to time differ. After all, the inspecting officer is in no way responsible for the management or for the direction of any local board or municipal schools, and therefore to place the whole matter in the charge of one inspector is hardly fair to the local authority itself. I therefore submit, Sir, that on two grounds, one, that "pernicious" is not defined and, second, that the school authorities or the local authorities should be entrusted with the management and this should not be

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left in the hands of one individual officer of Government, the sub-clause should be left out.

The Honourable Dr. R. P. PARANJPYE: Mr. President, you will find, Sir, by looking at the clause that the inspecting officer is only to ascertain if pernicious instruction is given. He is not to issue orders. He is to report to the higher officers and the Government if he finds that pernicious instruction is being given, and Government then have to take any steps that may in their opinion be necessary. That is the first thing. Then, my honourable friend from Sukkur mentioned that the word "pernicious" is nowhere defined. I think that word has such a strong meaning—seditious, immoral or anything of that serious nature—that I do not think that the honourable members of this House will say that they want to stop Government from making enquiry as to whether seditious or immoral instruction is being given in the school or not. It is quite possible that pernicious instruction may be given in some schools. It is quite possible and cases occasionally have occurred. I do not think, therefore, that the honourable members of this House will object to Government's power to see that the education is not misused in this manner. How are Government to find out, if they are not able to ascertain it, whether the funds paid by them for the education are misused or misapplied. I think the inspecting officer must obviously have power to see whether instruction given in any school is pernicious. If my honourable friend from Sukkur could suggest some other word than "pernicious," I should have been quite glad. The words "instruction of an unsatisfactory nature," for instance, would not do, and a very strong word must be put in. Therefore, "pernicious" has been put in as a suitable word. I might mention that a clause somewhat of this nature is actually there in the Grant-in-aid Code for the last ten years, and under that section of the Grant-in-aid Code or a similar legislative enactment, action was taken by Government only in one school during that period on account of pernicious instruction being given therein. The clause is not likely to be misused, but you obviously must leave the power in the hands of Government to see whether pernicious instruction is given. It is the officers of Government through whom only Government can find it out by making enquiry into the matter.

Rao Bahadur S. D. GARUD (West Khandesh District): How will the inspector know whether an instruction is pernicious or not?

The Honourable Dr. R. P. PARANJPYE: I have already told you. If a teacher is teaching something which is obviously seditious or obviously immoral, then these are things which members of this House surely do not want to be taught in a school. However, the final action has to be taken by Government and the person who will determine it will be the Minister who is responsible to you. But the inspector should have the power to *ascertain* whether such a thing is being done. It might happen, for instance, that a teacher is habitually taking all the pupils of the school to seditious meetings or he is asking the pupils to take part in celebrations of an undesirable nature like the Holi festivities, and I think the officers of Government should have the right to make this sort of enquiry. As I mentioned, in only one case action was taken in all these years. I do not think this clause will be misused at all, but in any case Government must have the power of finding out whether any pernicious instruction is being given and deciding whether any action is justifiable or not.

The Honourable the PRESIDENT: "Pernicious" is defined in the Imperial Dictionary as anything having the quality of destroying; tending to destroy, kill or injure; destructive; ruinous; fatal.

Amendment negatived.

Sub-clause (*b*) of clause 16 (1) ordered to stand part of the bill.

Clause as amended ordered to stand part of the bill.

Clause 17 (*Subjects, curricula, etc., of approved schools*).

**The subjects curricula, books and standards of teaching of approved schools shall be as prescribed but may be altered by the school board with the sanction of the Government to suit local requirements.**

Mr. B. G. PAHALAJANI (Western Sind): Mr. President, all that I suggest by my amendment is:

**"That the word 'books' in line 1 be left out; and a sub-clause be added as 17 (1) as follows:**

**'Books shall be prescribed by the local authority according to local requirements'."**

My object in suggesting the omission of this word is that each local authority should be given a free choice of selecting the books. Even in the same province there are different requirements of different places. Certain local conditions may require that some kinds of books should not be taught throughout, even if they are prescribed by Government. There is no reason why the books themselves should be prescribed by Government. Therefore, I submit that, if that power of prescribing the books were given to each local authority by itself, it would be a step forward whereby a kind of dignity or a certain kind of responsibility will be conferred on that local authority. It would be fair to trust the local authorities on this subject. By not doing so and restricting the local authorities to select certain books only you will be thwarting originality. Though the general curriculum may be prescribed by Government, I think it is unnecessary that books also should be in any way prescribed by Government. That power can be given to the local authorities and therefore the word "books" may be removed from this clause and the rest should remain.

The Honourable Dr. R. P. PARANJPYE: Sir, I do not know what the honourable member wants. The words immediately next to the words "the subjects, curricula, books, etc.," admit that the local authorities can make any alterations in the curricula with the consent of Government. I do not know what else the honourable member wants. Does he want the local authorities to choose any books which they like and which Government does not approve of?

Mr. B. G. PAHALAJANI: Yes.

The Honourable Dr. R. P. PARANJPYE: I do not think that the local authorities are going to bear the whole expenditure. If they can do so, they can do what they like. But while Government is asked to pay more than half, two-thirds in the case of local boards and three-fourths in the case of municipalities, Government can prescribe model books, and the local authorities are entitled to alter them subject to the sanction of Government. The object apparently is that the local authorities should approach Government and say that they want such and such a book to be substituted. Is there anything wrong in that? If the local authorities can point out that such and such a book is approximately as good as the book prescribed by Government, then there is nothing to say. If the model curricula and books are not prescribed by Government, any teacher will use any book without any sanction. Even at present in our inspection we find teachers using any number of bad books.

The Honourable the PRESIDENT: I am afraid that the remarks of the Honourable Minister are beside the point raised. What the honourable mover proposes is to give liberty to the local authorities to choose the books. I understand the honourable mover to suggest that Government may have the right of vetoing them if they think that a particular book is objectionable. But the clause sought to be amended says "Government shall prescribe."

The Honourable Dr. R. P. PARANJPYE: The power of vetoing is not even left to Government.

The Honourable the PRESIDENT: In that case the Minister may move an amendment if he likes; but that is not the point now under debate.

The Honourable Dr. R. P. PARANJPYE: In any case the local authorities, if they want certain books to be prescribed, can make recommendation for it. We want the authority to veto, but the honourable mover wants to omitthe word "books."

The Honourable the PRESIDENT: The contention of the honourable member moving the amendment is "Leave to the local authority the liberty to choose the books and let Government interfere only as an over ruling authority in the case of any particular books." The Honourable Minister is not meeting that point, and his remarks are not therefore relevant.

The Honourable Dr. R. P. PARANJPYE: There are certain standard books and if anybody objects to them, he can propose others. Under the present circumstances, very few people do wish to propose any alteration. If we put down in the curricula details of subjects, the schools will come forward and say tell us from what books they have to teach them. That is the actual state of things. We are going to give them absolutely any liberty they like. You can easily see merely prescribing a subject is not enough. You will prescribe history of England for matriculation, you will prescribe history of England for B. A. and also for M. A., but the history of England in that way is not a properly intelligible term. The standard of teaching at that time would make it fairly clear by books which are to be used for learning the subject at a particular stage. If you want the third standard boys to read two hundred lines of Marathi verse and also your first standard boys to learn the same amount of Marathi poetry, well, the lines of Marathi poetry to be learnt in the third standard will be different from that to be learnt in the first. There would be a certain gradation. Simply saying so many lines of poetry cannot be plain. Some guidance must be given. Standardised courses and books will be there, but they can make any alteration. We only wish the local bodies to come forward and ask for any changes they like.

Rao Bahadur G. K. CHITALE (Ahmednagar District): Sir, the point is altogether missed by the Honourable Minister. The evidence before the Primary Education Committee was that the present series of books do not give them an outlook of the agricultural situation, for instance. The poems which at present are introduced into the schools are of such a bad taste or, if not altogether of a bad taste, they are colourless. For example, the poems taught to children like "*Chendu khâli álá war gelá.*" Objection is raised to such poetry by some parents whose boys you want to teach. But the department says you teach these books of Macmillan and Company. If you use any other books, they will not be allowed. You have put in these departmental books particular lessons, but those lessons are being taught in a pernicious manner.

All that the honourable member from Sukkur wants is this, that now that the local bodies are being treated with a little more responsibility and

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self-respect, that you are willing to treat them to such an extent that the whole primary education course is to be put into their hands with the help of administrative officers, they say they will introduce their own books which, if you approve, they will introduce. All that is simply because if the book which is not approved by the department is used, it is at once condemned. If you find that there is anything bad, you take it out. But do not make it compulsory on local authorities to use a particular book or a particular paper. That is, I think, a request which the Honourable Minister must appreciate, namely that the points that are now put in are perhaps better and he has been himself taught the poems that were in the old Marathi series in my time. We see that a good book like *Navaneet* is not at present being taught, although the poems therein are really worth being taught. In Urdu primary standards they say that the texts that are at present prescribed do not meet their wishes. They do not want them. They want some such series which will bring out religious sentiments and that it ought to be left to the discretion of the local authority. If anything else is done, then they will say "By all means take it back."

An Honourable MEMBER: I move the closure.

The Honourable the PRESIDENT: Before the closure is accepted I wish to know whether it is possible to arrive at some understanding on the question between Government and the Opposition.

Mr. B. G. PAHALAJANI: If the Honourable Minister undertakes to say that books will come to him for selection, I shall have no objection on my part. If not, I may say "We may shut up our shop".

The Honourable the PRESIDENT: If the words "to suit local requirements" be omitted, I think the object the honourable member from Sukkur has in view will be achieved.

The Honourable Dr. R. P. PARANJPYE: I have no objection to adopt your suggestion, Sir.

Mr. B. G. PAHALAJANI (Western Sind): Sir, I do not think I can accept that suggestion. So far as the general principle of curricula and teaching are concerned, the Government have the right to regulate them. So far as books are concerned, what is at present at the back of the Honourable Minister is what are called "model books" which the Government is very fond of. The local authorities ought to have greater latitude within their own province to prescribe books they consider best. The Government have power not to allow the introduction of pernicious books in schools, and to withhold grant; but, so far as books are concerned, what I pray for is that liberty should be given to local authorities to prescribe books according to the requirements of the particular district. Government can stop teaching of any books if they are bad. So far as selection is concerned, there should be no slavish following of what are called "model books." We have been subjected to this slavish mentality of reading those books so long. What I think the House will insist upon is that each district ought to have the liberty of prescribing books for their schools, provided they are not seditious or pernicious. I am sure the House will join with me in insisting that a local authority should have freedom in the selection of books without following the stereotyped model books which benefit no body else butthe sellers of those books.

The Honourable Dr. R. P. PARANJPYE : Sir, I have no objection to omit the last few words. All that I want is that books that are prescribed must have the sanction of Government, because otherwise books of a very undesirable type may be introduced. If books are written by competent persons and submitted to Government, Government will be prepared to see that they are approved. If the model series is not liked, there are heaps of other books on the sanctioned list. First of all, a standardized list is given, and if anybody wants to go outside that list, all that he has to do is to send the books to the department. I do not think there is any difficulty in this clause. The fullest liberty is given.

Question put :

**That the word " books " in clause 17, line 1, proposed to be left out do stand part of the clause,**

and carried.

Amendment negatived.

The Honourable the PRESIDENT : Does the Minister desire to move the amendment in his name to leave out the words "to suit local requirements ?"

The Honourable Dr. R. P. PARANJPYE : No, Sir. It will not be necessary.

Rao Bahadur R. R. KALE (Satara District) : Sir, I beg to move :

**"That in clause 17, line 1, after the words ' approved schools ' and before the word ' shall ' add the words ' and primary schools maintained or aided by a local authority.' "**

Sir, " approved school " is defined in clause 1 of this bill as

**" a school or part of a school in which instruction in elementary education is given and which is for the time being approved by the school board or by the Government on appeal from a decision of the school board refusing approval."**

So this clause 17 will apply only to schools where elementary education is given. I want to bring in all primary schools under this clause.

The Honourable the PRESIDENT : What is the distinction between a primary school and a school where elementary education is given ?

Rao Bahadur R. R. KALE : Primary schools are of two kinds, lower primary and upper primary. Elementary education is given in lower primary schools, that is up to the fourth standard.

The Honourable the PRESIDENT : Up to what standard does the primary schools teach ?

Rao Bahadur R. R. KALE : Up to the seventh standard.

The Honourable Dr. R. P. PARANJPYE : Sir, I have no objection to accepting this amendment with the addition of the word " other." The amendment will then read : " and other primary schools maintained or aided by a local authority. "

Question put :

**"That the words ' and other primary schools maintained or aided by a local authority ', be added after the words ' approved schools ' and before the word ' shall ' in clause 17, line 1, "**

and carried.

The Honourable the PRESIDENT : Mr. Pahalajani's next amendment:

**"That in clause 17, add a sub-clause as 17 (1) ' Books shall be prescribed by the local authority according to local requirements '."**

falls to the ground in consequence of the defeat of his first amendment.

Clause as amended ordered to stand part of the bill.

Clause 18 (*Duty of parents to cause children to attend school*) ordered to stand part of the bill.

Clause 19 (*Meaning of reasonable excuse*).

A parent shall be deemed to have a reasonable excuse for failure to cause a child to attend an approved school in any of the following cases :—

(*a*) where the child is prevented from attending school by sickness, infirmity or other unavoidable cause ;

(*b*) where the child is receiving otherwise than in an approved school, instruction which in the opinion of the school board is efficient, or has received from the school board a certificate of having already completed his elementary education ;

(*c*) where there is no approved school within a distance to be fixed by the Government in consultation with the school board and measured according to the nearest road, from the residence of the child ;

(*d*) where, after due application, entrance to an approved school has been refused to the child until such time as the parent is notified that the child can be admitted ;

(*e*) where there is no approved school in the locality in which instruction is given in the vernacular of the child.

The Honourable Dr. R. P. PARANJPYE : I beg to move, Sir :

"That in clause 19, sub-clause (*d*), lines 11 and 12, after the words 'refused to the child' add the words 'and there is no other approved school within the distance fixed under clause (*c*).'"

It is possible that there may be two approved schools within the necessary distance : a man may go to one school and may be refused admission for his child there. This amendment puts on him the liability of going to the other approved school, but, if he is refused admission in all the approved schools within the necessary distance, then he will not be subjected to any punishment.

Amendment carried.

Mr. A. N. SURVE (Bombay City, North) : Sir, I beg to move :

"That in clause 19, at the end of sub-clause (*e*) add as sub-clause (*f*) the following, namely :

'(*f*) where there is no approved school in the locality to which he can send the child without exposing it to religious instruction to which he objects.'"

There is a possibility, especially in the mofussil, of mission schools being "approved schools" where religious instruction on denominational lines is compulsory and to which the parent of the child objects. It is not desirable that the child should be exposed to such religious instruction against the wishes of its parent. For that reason I beg to submit that this clause should be adopted by this House.

The Honourable the PRESIDENT : I think that the words "he can" should be "the parent can" and the words "he objects" should be changed into "the parent objects" otherwise "he" might be taken to stand for "child" and make the amendment vague. It is necessary to make it quite clear in an enactment.

The Honourable Dr. R. P. PARANJPYE : Sir, I have no objection to accepting this.

Question put :

"That in clause 19, at the end of sub-clause (*e*) add as sub-clause (*f*) the following, namely :

'(*f*) where there is no approved school in the locality to which the parent can send the child without exposing it to religious instruction to which the parent objects.'"

and carried.

Clause as amended ordered to stand part of the bill.

The Honourable the PRESIDENT : The Council is adjourned to 2 p.m. on Saturday the 16th December 1922.

*Saturday, the 16th December 1922.*

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The Council re-assembled at the Town Hall, Bombay, on Saturday, the 16th December 1922, at 2 p.m., the Honourable the President, Sir NARAYAN GANESH CHANDAVARKAR, Kt., LL.D., presiding.

*Present :*

ADDYMAN, Mr. J.
BATLIWALA, Dr. S. S.
BELL, Mr. R. D.
BHATE, Mr. G. C.
BIRADAR, Sardar M. A.
BOLE, Mr. S. K.
BULLOCKE, Mr. A. GREVILLE
CADELL, Mr. P. R.
CHAUGULE, Mr. ANNAPPA PHADEPPA
CHITALE, Rao Bahadur G. K.
COCKE, Mr. H. G.
DABHOLKAR, Mr. V. A.
DADACHANJI, Dr. K. E.
DALAL, Sardar Khan Bahadur ADARJI M.
DALAL, Mr. D. B.
DESAI, Rao Saheb DADUBHAI P.
DESHMUKH, Mr. ANANDRAO SHRIPATRAO
DUBHASHE, Mr. SHANKAR BALKRISHNA
DWARKADAS, Mr. KANJI
GANDHI, Mr. C. M.
GARUD, Rao Bahadur S. D.
GHULAM HUSSAIN, The Honourable Khan Bahadur SHAIKH
GODBOLE, Dewan Bahadur K. R.
HAJI, Mr. IBRAHIM S.
HALKATTI, Rao Saheb PHAKIRAPPA GURUBASAPPA
HAYWARD, The Honourable Mr. M. H. W.
HULKOTI, Mr. CHANNAPPA CHANVIRAPPA
JENNINGS, Major General W. E.
KALBHOR, Mr. G. M.
KALE, Rao Bahadur R. R.
KASSIM, Mr. G. H.
LALBHAI AMBARAM, Mr.
LALJI NARANJI, Mr.
LAWRENCE, The Honourable Mr. H. S.
LIGADE, Mr. S. P.

LORY, Mr. F. B. P.
MANSURI, Khan Saheb A. M.
MEAD, Mr. P. J.
MEHTA, The Honourable Mr. C. V.
MOHOMED SALAHUDDIN K., Mr.
MOTIRAM, Rao Saheb RUPCHAND
MURPHY, Mr. S. J.
MUTALIK, Sardar V. N.
NIMBALKAR, Mr. K. B.
PARANJPYE, The Honourable Dr. R. P.
PATEL, Mr. B. P.
PATEL, Mr. J. B.
PAWAR, Shrimant J. A.
PRADHAN, Mr. M. W.
PROES, Mr. E. M.
RAHIMTOOLA, The Honourable Sir IBRAHIM
ROTHFELD, Mr. O.
SALGAR, Mr. R. G.
SAYED, SHAHJADE SAHEB HAIDAR SAHEB
SETALVAD, The Honourable Sir CHIMANLAL
SHIRRAS, Mr. G. FINDLAY
THOMAS, Mr. G. A.
TRIVEDI, Mr. G. B.
WOODS, Mr. E. E.

The Honourable the PRESIDENT: Order, order, Questions.

ORIGINAL SUITS IN SUB-COURTS.

Mr. C. C. HULKOTI (Dharwar District): Will the Government be pleased to state—

(*a*) The number of original suits on the file of each first class subordinate judge, the subject matter of which amounts to more than Rs. 5,000 and less than Rs. 10,000 in amount or value ?

(*b*) The average number of civil appeals on the file of each District Judge, basing the average on 3 years' figures ?

(*c*) The average number of civil suits on the file of 2nd class subordinate judges basing the average in each case on three years' figures, and what percentage of cases are more than a year old in subordinate judges' courts of special jurisdiction and ordinary jurisdiction ?

The Honourable Mr. M. H. W. HAYWARD: A statement* giving the information is laid on the Council table.

SUSPENSION OF LAND REVENUE.

Rao Bahadur R. R. KALE (Satara District): In how many villages of the Satara district was the land revenue suspended during the years 1921 and 1922 ? Will Government be pleased to name such villages ?

*Vide* Appendix Q.

The Honourable Sir IBRAHIM RAHIMTOOLA: Statements* showing the villages of the Satara district in which land revenue was suspended during the years 1920-21 and 1921-22 are laid on the Council table.

NUMBER OF PROSECUTIONS IN THE SATARA DISTRICT.

Rao Bahadur R. R. KALE (Satara District): What is the number of prosecutions under Chapter VIII of the Criminal Procedure Code in the Satara District during the last three years? In how many of them securities were taken? What is the number of appeals in such cases? In how many cases the accused had to remain in jail for want of security? In how many cases were securities refused more than once?

The Honourable Mr. M. H. W. HAYWARD: A statement† giving the information is placed on the Council table.

Rao Bahadur R. R. KALE: Will Government say whether the two cases in which securities were refused were sent up to the High Court in appeal, which reversed the orders of the magistrate?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I ask for notice of the question.

ZAMINDARS' INABILITY TO REFUND TAKAVI AND PAY ASSESSMENT.

Mr. G. H. KASSIM (Karachi City): Will Government be pleased to state if they are aware that some zamindars in the Karachi district have been obliged to sell their lands at low prices owing to their inability to refund takavi and pay land assessment to Government?

The Honourable Sir IBRAHIM RAHIMTOOLA: No. There have been some voluntary sales of land in the Kotri, Mirpur Bathoro and Tatta talukas to pay off arrears of takavi or land revenue; but in no case has the price realised been lower than that ordinarily fetched by such land.

SCHOLARSHIPS FOR MAHOMEDANS.

‡Mr. G. B. TRIVEDI (Thana District): (*a*) Will Government be pleased to state how many scholarships during the last three years reserved for Mahomedans were awarded to candidates obtaining less than 20 per cent. of marks in English and Mathematics?

(*b*) Number of Mahomedan candidates that appeared in each district and the number of these scholarships reserved for each district?

The Honourable Dr. R. P. PARANJPYE: (*a*) and (*b*) Statements§ giving the information asked for are laid on the table.

## PRIMARY EDUCATION BILL (BILL NO. XVII OF 1922).

(Consideration of clauses resumed.)

Clause 20 (*Issue of attendance order*) ordered to stand part of the bill.

Clause 21 (*Penalty for failure to cause child to attend school*).

(1) Any parent against whom an order with reference to a child has been passed under section 20 and who fails to comply with the provisions of section 18 with respect to such child on and after the date specified in such order shall, if he resides in a town or village where there is

* Kept in Secretary's office.

† *Vide* Appendix R.

‡This question was asked at the meeting held in July 1922, when an *ad interim* reply was given.

§ *Vide* Appendix S.

a magistrate, on conviction by such magistrate, and, if he resides elsewhere, on conviction by a revenue or police patel or other person empowered in this behalf by the District Magistrate, be liable to a fine not exceeding two rupees and, if such failure continues after such conviction, he shall also on conviction by such magistrate, patel or person be liable to a fine of eight annas for every day that the failure continues or is repeated.

(2) No magistrate, patel or person shall take cognizance of an offence under sub-section (1) except on the complaint of the authority or person who passed the order under section 20.

Mr. C. M. GANDHI (Surat City): Mr. President, the amendment which I wish to move is as follows:

"In clause 21, sub-clause (1), line 5, leave out the words 'revenue or police patel or other person empowered in this behalf by the District Magistrate' and insert instead the words 'committee of three consisting of the chairman of the village panchayat or the school committee constituted for the village and two members thereof elected by the panchayat or the school committee, as the case may be, and holding office for six months'."

Sir, my amendment is in consonance with the recommendation of the committee appointed to look into the question of compulsory primary education, and I venture to think it is in consonance also with the spirit or views of the people amongst whom we are going to enforce compulsion. Our experience has shown that the revenue or police patel is at times likely to be a village tyrant, and if the Act is to be administered sympathetically and in a manner to create the least resistance, the power of punishing should be given to a committee consisting of the chairman and two members of the village panchayat, or, in the case of villages where a panchayat has not been constituted, the school committee which is ordinarily appointed to look after the schools. These people will be the persons who will have a great share in enforcing and spreading education in the village, and therefore they will administer the Act very sympathetically. It is with that object that I propose this amendment, and I hope the Minister will find his way to accept it.

The Honourable Dr. R. P. PARANJPYE: Mr. President, this question was also carefully considered by the select committee, and it after all came to the conclusion that the original proposal should stand. I shall tell you, Sir, the reasons for the change from the report of the Compulsory Education Committee. The villages in which this clause is to operate would be comparatively small villages, and you will find it is very difficult to get committees of three persons of a fairly good standing to do this work. Remember also that before we get this committee to impose the fines, we shall have to have another committee also from the villages to do the regular routine business of enforcing compulsion, issuing attendance orders, making lists, and so on. A school-board's administrative officer will not be able to do this work himself and that power will have to be delegated by him in each village to a certain number of the members of the committee so that my honourable friend wants to have two committees ordinarily, a committee to issue attendance orders and do the other business and another committee to try these offenders. Now, does my honourable friend really mean that in a village there will be a sufficient number of fairly responsible people to constitute such committees? I do not think that this Council, which is so keen upon the separation of judicial and executive functions will for a moment.....

The Honourable the PRESIDENT: Order, order! I notice an honourable member in the House who usually appears in his Indian head-dress is to-day without it and sits bare-headed. Unless he appears in a European costume I think it is disrespectful to the House for him to be in the House without his Indian head-dress, while wearing his Indian costume.

Mr. A. N. SURVE (Bombay City, North): I beg the Council's pardon, Sir, but the thing is I had no time to go home and change my head-dress and I had to come here with my cap. If you want me to do so, I will go out and come back with my cap.

The Honourable the PRESIDENT: Very well.

The Honourable Dr. R. P. PARANJPYE: I do not think that this Council will entertain for a moment the idea that the Council which is so keen upon the separation of judicial and executive functions would wish to entrust both these functions of the prosecutor or the person who issues attendance orders and brings them before a tribunal for trial and the person who is to judge of that case to one and the same committee. There will have obviously to be two separate committees and consequently it was thought that it would not be ordinarily practicable in a village to have six persons of a responsible position to do these two kinds of work which must in my opinion be kept definitely separate, and I therefore think that it would be better to have a separate person—a single person—to try these cases. Remember, moreover, that the police patel has already got criminal jurisdiction of this executive type under the Village Police Act. He can imprison a person for 48 hours and levy fines of small amounts somewhat greater than fines contemplated here. We are not investing a police patel with a power which he has not already got, and moreover, when we say that any conviction before such a police patel or a person shall be capable of being appealed against before a regular magistrate, I do not know where the fears of my honourable friend come in. I myself feel that the provision we have made for the trials of such cases is better. The honourable member has spoken about the village panchayats. Now, if the honourable member will refer to the Village Panchayat Act, he will find that one of their principal duties is the management of schools and consequently, to tell them that they are to prosecute and also fine offenders is wrong in the very nature of things.

Again, my honourable friend has himself admitted that it is not very many villages that have come forward to introduce panchayats and therefore I think that the panchayats would not be able to make use of this power if at all it was placed in their hands.

Further, the honourable member talks about school committees. He also knows how these school committees work. These school committees take hardly any interest in the management of the schools and they only want to be put on the school committee in order that the schoolmaster might be at their beck and call and make obeisance to them.....

The Honourable the PRESIDENT: That I understand is true in the case of Councils also.

The Honourable Dr. R. P. PARANJPYE: They are hardly willing to pay surprise visits to any schools or to take any real interest in their management. It is possible that persons armed with these powers of fines may occasionally make a good thing out of it. They may threaten people who are not sending their children to school to fine them very heavily unless they were given some inducement for letting them off. There is possibility in this way of their making some illegal profits on this account. However, in the case of a police or revenue patel who is a Government servant and whom Government can catch in various ways and who is distinctly subordinate to higher officials, I do not think that he is liable to abuse his powers to any considerable extent. I do not say that the powers will never be abused, but at any rate there is a risk over his head that he may be turned out of his office which brings him a fair

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amount of remuneration and on which depends his living. I therefore do not think that the Council could accept this amendment although I understand that the honourable member's intentions are quite good. Government considered this point very carefully before drafting this bill and the select committee also considered this question and both are of the opinion that the method proposed here is on the whole a better one for the proper administration of this Compulsory Education Bill.

Mr. D. B. DALAL (Panch Mahals District): Sir, I rise to oppose the amendment moved by my honourable friend from Surat. If there is no magistrate on hand in the near vicinity of a village, I think the proper person to be given this power is the police patel.

The police patel is a responsible Government officer who carries out the village administration and who is familiar with the prevailing conditions of his village and hence to be just, Sir, it should be his work to fine those inhabitants of his village who do not abide by the law of compulsion.

The village officer is at present enjoying more important powers than these such as of keeping a person in lock-up for not more than 18 hours for misconduct or some such other fault and, Sir, this House has not heard any instance to show that the village officer misused the powers. Under these circumstances, Sir, I fail to understand why this power should not be given to the police patel.

Sir, if this power is not given to police patels, I am afraid that the respect which the villagers generally have for their patels will be greatly lessened and the effect of it will be that the village officers will meet with some obstruction in carrying out their duties. From this I do not wish to say that all village officers are all honest and capable. There are, Sir, exceptions to each and everything, but, Sir, for the sake of a few to deprive the whole class from enjoying this legitimate right is, I think, Sir, most unreasonable. Therefore I think that the House will be well advised to throw out this amendment which puts a slur on the character of village officers.

Mr. C. M. GANDHI (Surat City): Sir, I will first of all deal with the point made by my honouarable friend from Panch Mahals, who seems inordinately nervous about police patels losing their prestige in the eyes of villagers. Without wishing to cast any slur on the character of these village officers, I must tell the Council that my experience does not exactly tally with that of my honourable friend from Panch Mahals. The Honourable Minister says that he does not like that the same person who is the prosecutor should also be the judge. That is not likely to happen even in this case. The attendance officer will be one and the power will have to be delegated to a person or persons to be appointed by the chief officer of the school board, so that it is quite possible to have a committee of three men from outside for doing this work, so that the duties of the prosecutor and the judge may not be combined in one. But I do think, Sir, that a committee of three like this will administer this Act in a more sympathetic spirit and will be a better means of doing it.

The Honourable Dr. R. P. PARANJPYE: Mr. President, I would just like to point out to the honourable member once more that this offence is not a cognisable offence. Anybody cannot haul up a parent for not sending his child to the school. The man is to be hauled up by the attendance committee. So you have got the attendance committee who have got to haul up the man,

[Dr. R. P. Paranjpye]

first of all, and after the committee has brought the man before the police patel, then he has to pass judgment and fine the man; so that a police patel cannot of his own motion punish any body. He can only punish a man when he is brought before him by the attendance officer. I think, therefore, all the safeguard that my honourable friend wants is there already. But a man should be ordinarily amenable to discipline and supervision. I therefore hope that the Council will reject this amendment.

The words "revenue or police patel or other person empowered in this behalf by the District Magistrate" in lines 13, 14, 15 and 16 of sub-clause (1) of clause 21 ordered to stand part of the bill.

Amendment negatived.

The Honourable the PRESIDENT: Then, Mr. Gandhi's amendment to sub-clause (2) falls to the ground. Then comes Rao Saheb Dadubhai Desai's amendment:

"Add at the end of sub-clause (2) of clause 21, after '20,' the words 'or by any person authorised by the said board or person in this behalf.'"

The Honourable Dr. R. P. PARANJPYE: I am prepared to accept that amendment, Sir, with the omission of the words "or person". I want to omit the words "or person."

Rao Saheb D. P. DESAI (Kaira District): The point is, Sir, that "person authorised by the board" presumably means a person appointed from the board itself and that the board has got to appoint him only.

The Honourable Dr. R. P. PARANJPYE: No, they can appoint anybody.

The Honourable the PRESIDENT: "Any person in this behalf" means whom? The words "or person" must go. The amendment will read as follows:

"At the end of sub-clause (2) of clause 21, after figure '20,' in line 11, add the words 'or by any person authorised by the said board in this behalf.'"

Amendment carried.

The Honourable Sir IBRAHIM RAHIMTOOLA: Will you, Sir, allow me to explain a point which arose yesterday as regards the policy of Government in connection with the expansion of primary education on a voluntary basis? I made a statement yesterday which requires to be clearly explained in order to remove any possibility of misunderstanding. Have I your permission, Sir?

The Honourable the PRESIDENT: Yes.

The Honourable Sir IBRAHIM RAHIMTOOLA: Yesterday I said that the policy of Government in regard to expansion of primary education on the voluntary basis will not be affected by the provisions of this bill. I made it clear that there was no legal obligation under present conditions, that the grants were made under the Grant-in-aid Code, and that they will continue to be regulated as at present. In order to avoid all possibility of misunderstanding, I should like to explain that this bill deals with compulsory primary education and imposes a legal liability upon Government to the extent of two-thirds and half of additional expenditure in regard to schemes for the introduction of compulsion. As regards primary education on the compulsory basis, the Honourable Minister has explained that the grants as made at present will be continued. Therefore, the question arises as to what is to happen in cases in which further progress is made on a voluntary basis after the passing of this

[Sir Ibrahim Rahimtoola]

bill. The answer to it is, as I said yesterday, that Government policy will be the same as at present. There is, of course, no legal liability involved and grants to local boards and municipalities for primary education depend upon Government having available funds for the purpose, as is the case at present. As regards the basis on which further grants will be made for the additional expenditure to be incurred, I want to remove all possible misunderstanding. Honourable members should realise that the percentage of grants for further expansion which has been in force up to now cannot be continued in the future even if funds are available. If Government continued to pay 88 per cent. to local boards, towards the additional expenditure on primary education on the voluntary basis, then it would act directly as a discouragement to the introduction of compulsion which public opinion demands. It must be obvious that if local boards find that increased expenditure on the voluntary basis will bring them 88 per cent. and on the compulsory basis only two-thirds, then they will naturally try to postpone the introduction of compulsion as long as possible. It is, therefore, intended, and I understand the honourable member from Kaira desired only by his amendment, that if there is any expansion of primary education on the voluntary basis, the grants for additional expenditure, when Government are in a position to make them, will be based on the new standard. That is to say, future grants will be regulated by the two-thirds and the half basis, which is provided in this bill. The result will be that in regard to all further expansion whether it is on a voluntary basis or on the basis of compulsion the same proportion of grants will be payable—in the one case they will be discretionary while in the other they will be obligatory. I hope the statement which I made yesterday will not be misunderstood. I was they speaking on the amendment of the honourable member from Kaira, who, as I understand it, really required an assurance that Government would continue to make grants towards the expansion of primary education on the voluntary basis on the same standard as is provided in the bill, namely, two-thirds for local boards and half for municipalities. If that is correct, the explanation which I have now given will, I trust, be regarded as quite satisfactory.

The Honourable the PRESIDENT: There can be no discussion. A statement has been made on behalf of Government. The honourable member may raise a debate on a proper occasion by giving notice of a resolution.

Mr. G. B. TRIVEDI: The amendment is gone.....

The Honourable the PRESIDENT: If the honourable member for Thana wishes to ask any question or desires an explanation on any point which has been left ambiguous by the statement of the Honourable Leader of the House I can allow that.

Mr. G. B. TRIVEDI: We want to have our views stated.

The Honourable the PRESIDENT: Whether funds are available or not, Government must provide the money. Is that the honourable member's position?

Mr. G. B. TRIVEDI: No, no.

The Honourable the PRESIDENT: It comes to that. I cannot allow a debate on the statement at this stage.

(Mr. G. B. Trivedi again rose in his seat.)

(Honourable Members: Order, order.)

Rao Saheb D. P. DESAI: If the Government are going to undertake the responsibility for two-thirds proportion, why should they not allow it to be embodied in the Act?

The Honourable the PRESIDENT: The whole question is whether the statement made to-day falls short of or meets the undertaking given yesterday. If it falls short of it, and there is a breach of the undertaking implied, the House may consider the position. If the House will take my advice, the question whether it is a legal liability or a pledge or undertaking given by Government is subject to this consideration, *viz.*, either it presupposes that Government are financially in a position to perform what the law requires them to do where it is a statutory duty or what they have pledged themselves to do, if it is an undertaking they have given to the House.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, I should like to read out a portion from the typed transcript of my yesterday's speech:

"May I say, Sir, that the position of Government is this, that so far as the expansion of primary education is concerned, the policy which has been pursued in the past will be continued. There is, as has been clearly pointed out, no legal obligation on Government and no legal obligation can be accepted by Government on the present occasion. The amendment proposes to make it a legal obligation which Government cannot accept. There is going to be no change in the policy of Government so far as expansion of primary education is concerned. Without accepting any obligation, I may state that the policy which has been pursued so far will be continued."

It may be pointed out that in all district local boards the control of primary education is entirely in the hands of the Education Department, and no expansion can take place unless that department sanctions it. The Educational Department will never sanction it till funds are available. So, my to-day's statement is in no way inconsistent with what I stated yesterday. In order to remove all possible misunderstanding, I have tried to explain the position I hope more clearly.

Mr. C. M. GANDHI: Suppose a scheme of primary education is laid before Government and the Government are unable to accept it and in the meantime expansion in the local board.....

The Honourable the PRESIDENT: We are now concerned with the undertaking, and I cannot allow the discussion of the clauses to be interrupted any more. May I address the honourable member for Thana (Mr. G. B. Trivedi)? I quite appreciate the meticulous care shown by the honourable members in seeing that Government do not cloud their words of promise in ambiguous phrases. Yesterday the undertaking was given, to some extent owing to my interference. If I felt that, having given an undertaking, the Government were now going away from it or rather making it ambiguous, it would be my duty from this Chair to protect the rights of the honourable members. But I have listened carefully to what has been stated by the Honourable Leader of the House, and I think it does not materially affect the position so far as it was created by the undertaking given yesterday. The matter may be allowed to rest there. If there is any doubt or difficulty still, the question may be raised at the budget time or on the estimates.

Clause as amended ordered to stand part of the bill.

Clause 22 (*Penalty for employing child liable for compulsory education*).

(1) Whoever knowingly takes into his employment, either on his own behalf or on behalf of any other person, any child in respect of whom the provisions of section 18 apply, so as to interfere with the efficient instruction of such child, shall, on conviction before a magistrate be liable to a fine not exceeding twenty-five rupees.

(2) No court shall take cognizance of an offence under this section except on the complaint of the school board or the School Board Administrative Officer, and before making any complaint under this section against any person, the school board or the School Board Administrative Officer shall, unless such person has previously been convicted, under this section in respect of the same child, cause a warning to be given to such person.

The Honourable Dr. R. P. PARANJPYE: Mr. President, I propose to accept the amendment standing in the name of Rao Saheb Harilal Desai.

The Honourable the PRESIDENT: Let him move it. You cannot accept it before it is moved:

Rao Saheb D. P. DESAI (Kaira District): Sir, I beg to move, on behalf of Rao Saheb Harilal Desai.

"That in clause 22, sub-clause (2), line 6 after the words 'Administrative Officer' add the words 'or any person authorised by the said board or officer in this behalf'."

The Honourable Dr. R. P. PARANJPYE: Sir, I accept it just as it is, but there is a further small addition required after adding this. After the word "officer" in line 8, the words "or such person" should be added. That is a consequential amendment.

Amendment carried.

The Honourable the PRESIDENT: The next is a consequential amendment.

Question put

That in clause 22, sub-clause (2), line 8, after the word "officer" and before the word "shall" add the words "or such person"

and agreed to.

Clause as amended ordered to stand part of the bill.

Clause 23 (*Fines how dealt with*) ordered to stand part of the bill.

Clause 24 (*Appeal*) ordered to stand part of the bill.

Clause 25 (*Power to exempt particular classes*).

The Government may by notification in the *Bombay Government Gazette* exempt children of either sex of any particular class or community in any area of compulsion or part thereof from the operation of this Act.

Mr. C. M. GANDHI (Surat City): I beg to move

"That in clause 25, lines 2, and 3 after the word 'thereof' and before the word 'from' add the words 'or children residing in any such area or part thereof'".

My object, Sir, in moving this amendment is to get a declaration of policy from Government. Government in the previous portion of this clause takes power to exempt a particular class or community. I also want to know, Sir, whether if in any particular area parents desire their children to be educated in a particular school where necessary instruction up to standard IV is given, if they are determined not to send their children to approved schools in that place, will Government enforce attendance against the wishes of the parents in that case, or whether Government will be prepared to exempt those children and not face unnecessary opposition if parents want to send their children to certain schools. A declaration of policy is necessary, for up till now even in areas where people tried to enforce compulsion Government did not show readiness to do so.

The Honourable Dr. R. P PARANJPYE: It is not the Government, but but it is the local authority that has to enforce compulsion.

Mr. C. M. GANDHI: I am speaking advisedly when I say that Government did not show readiness to have compulsion enforced. And I want Government to say, Sir, whether it would be the policy of Government to enforce compulsory

[Mr. C. M. Gandhi]

attendance in approved schools even in cases where children are attending certain schools where instruction in elementary education is given up to the fourth standard and yet for reasons best known to those schools they do not choose to come within the category of approved schools. If not, Government ought to take power to exempt certain areas whenever circumstances require.

With these words I move the amendment.

The Honourable Dr. R. P. PARANJPYE: Mr. President, I do hope that the honourable member has read all the sections. In the case that he contemplates, where the children are receiving instruction up to the fourth standard, the school board or the local authority itself which has to enforce attendance can take advantage of sub-clause (*b*) of clause 19:

"where the child is receiving, otherwise than in an approved school, instruction which in the opinion of the school board is efficient, or has received from the school board a certificate of having already completed his elementary education;"

Under this clause those children will be exempted. On the other hand, there is this point. If the honourable member wants all the children in that area to be exempted, all that this practically means is that the scheme should not apply to that area. This clause is for the purpose of exempting any particular class or community within the area when the compulsory clauses are applicable to all the other children in that area. If it is contemplated that no child should be amenable to compulsion, then obviously the scheme should not apply to that area. I do not know what the honourable member intends. Government is not going to enforce compulsion: Government is going to ask the local authorities to enforce compulsion. Government will only ask them to enforce compulsion, but the local authorities, the school boards, are people amenable to all influences of public opinion and will take advantage of this exemption clause 19 (*b*) and say that these children are receiving education properly. I do not know really where the difficulty of the honourable mover arises.

Mr. G. B. TRIVEDI (Thana District): Sir, I am glad the honourable member for Surat has moved the amendment and has thus done a public duty. Since this bill was published, there has been some fear in some quarters that this bill has been brought in order to suppress the so-called national schools. I went clearly through the bill and I am of the same opinion as the Honourable Minister and therefore I took care to convince those concerned who had those fears that the old clause 17 (*b*), which is now 19 (*b*), did exempt schools other than approved ones if the education given there was fit in the opinion of the school board. Therefore there should be no apprehension at all that if people do not want to send their children to a recognised or an approved school they will be harassed. Such people may open their own schools, and may not take the Government or the municipal grant, but if they can convince their own school board that their children are attending a school, are receiving fit education in the opinion of the school board of their own town or area, that is quite sufficient. If they give elementary education there even on national lines their schools will not be suppressed and no guardians shall be dragged into court. I will give one instance. In my town of Bandra where we have compulsory education, there is a retired District Judge whose son is being taught at home by himself; the attendance officer insisted on the boy attending the school and the retired District Judge pleaded that his boy was receiving better education at home than he would receive at school and the school committee exempted the boy. Similarly, other children everywhere will be exempted if they are

[Mr. G. B. Trivedi]

receiving adequate elementary education at home or in national schools. Clause 19 (*b*), Sir, is quite clear, and I will therefore advise the honourable mover to withdraw his amendment.

Rao Bahadur R. R. KALE (Satara District): Sir, these two clauses, clause 25 and clause 19, serve the purpose contemplated by this amendment. Clause 25 is a general power to Government to exempt particular classes or communities, whereas clause 19 in other words has power to exempt particular children. There may be one child or two children or a number or children who are to be exempted. I think therefore that the amendment is really unnecessary.

The Honourable the PRESIDENT: It seems to me that there is a point of language.

Mr. C. M. GANDHI: I just wish to make my position clear. Clauses 25 and 19 read together do not solve the difficulty as my honourable friend from Satara said. For, under clause 19 (*b*) a local authority may accept instruction in any approved school if in the opinion of the school board it is sufficient. But if a child is receiving instruction in a school which does not allow inspection, how is the school board to be satisfied?

The Honourable the PRESIDENT: That is a different fact. I must say this amendment is not necessary and I rule it out of order.

Mr. C. M. GANDHI: In the case of a child who is receiving private instruction the school board may examine the child and be satisfied. With regard to those schools about which I am speaking, namely, those schools which stoutly refuse any grant, and oppose inspection, I am enquiring as to whether Government would like the school boards to enforce attendance by compulsion or to exempt such children from attendance. I am asking Government to declare what their policy would be in the matter.

The Honourable the PRESIDENT: I think this amendment is out of order.

Clause ordered to stand part of the bill.

Clause 26 (*default by local authority*).

(1) If a local authority when called upon makes default in preparing a scheme or after a scheme has been sanctioned omits to make adequate provision for compulsory elementary education in accordance with a scheme as sanctioned and to bring into operation or continue to keep in operation such scheme, the Government may after due enquiry appoint a person to prepare the scheme or to bring it into operation or to continue to keep it in operation as the case may be and the expense thereof shall be paid by the local authority to the Government.

(2) If the expense is not so paid the Government may make an order directing any person who has for the time being custody of any moneys on behalf of the local authority to pay such expense from such moneys as he may have in his hands or may from time to time receive and such person shall be bound to obey such order.

Mr. C. M. GANDHI (Surat City): Sir, I move that

"In sub-clause (2) of clause 26 line 8 insert the words 'either as banker or in any relation' between the words 'local authority' and 'to pay'."

I hope Government will accept this amendment in view of the fact that they accepted it in the Local Boards Bill.

The Honourable Dr. R. P. PARANJPYE: Sir, I accept the amendment.

Amendment carried.

Clause as amended ordered to stand part of the bill.

Clause 27 (*Rules*)

(1) The Government may by notification in the *Bombay Government Gazette* make rules regulating—

(*a*) the exercise and performance of the powers and duties of local authorities, municipalities which are not local authorities, school boards and School Board Administrative

Officers and their relations with the Government Educational Department and with each other in educational matters;

(*b*) the maximum and minimum pay, the grant of pension or provision of provident funds, the grant of leave and other conditions of service of, to or for the teaching, inspecting and supervising staff employed by a local authority;

(*c*) matters to be prescribed under the Act.

(2) Rules made under sub-section (1) shall be made after previous publication.

(3) The local authority may from time to time with the sanction of the Government make regulations not inconsistent with the provisions of this Act and the rules thereunder for carrying out the purposes of this Act; in particular and without prejudice to the generality of the foregoing provisions, the local authority may make regulations—

(*a*) including in the curriculum of primary education courses of practical instruction suitable to local needs;

(*b*) for the instruction in experimental science, modelling, nature study, manual training, and prevocational work including household science of children of any age receiving primary education;

(*c*) for the physical and moral training of children of any age receiving primary education;

(*d*) determining the pay and terms of employment of the teaching, inspecting and supervising staff and regulating the administration and management of primary schools;

(*e*) for the supply of books, slates and educational requisites to indigent children of any age receiving primary education.

The Honourable the PRESIDENT: Then we come to clause 27. There is an amendment by Rao Bahadur Kale, as follows:

"Omit sub-clause (2) and insert therefor the following sub-clause;

'Rules made under sub-section (1) shall be made after they are laid before and passed by a standing committee of official and non-official members of the Legislative Council to be constituted by itself for the purpose'."

I am afraid I shall have to rule this amendment out of order, because it is not reasonably complete and effective, for the words proposed to be added are 'Rules made under sub-section (1) shall be made after they are laid before and passed by a standing committee of official and non-official members of the Legislative Council to be constituted by itself;' that means the Council. Who is to decide the number of the members? Who is to decide whether the officials and non-officials are to be equal in number, or the officials are to be in a majority or minority? All that is left uncertain.

Rao Bahadur R. R. KALE (Satara District): Sir, my point in moving my amendment is that the rules should be passed by the Council. In order that the Council may not be wholly required to deliberate upon the rules, I only propose that the Council may delegate its functions to a committee of officials and non-officials to be constituted by itself. The principle which I am contending for in this amendment is a principle of very great importance. Whenever an enactment is passed, there is a section which gives the rule-making power to Government, and such rules, when they are made, have the force of law. In the past, we have had instances in which rules have been made under various enactments. Now the question arises as to whether the rules which are to be made to deal with certain important matters ought not to be laid before the legislature, because they have the force of law. I know that at present there is the practice of publishing the rules in the Government Gazette, in order that the public may have an opportunity of knowing what the rules are, and making any objections to them. That opportunity is there, but my point is that this opportunity, along with the members of the public, should be given to the Council, in order that the members of the Council should have a hold upon the rules. Before they are finally passed, it is necessary and desirable, in my humble opinion, that the rules should be laid before the House. Even in the Government of India Act, certain matters are left to be determined

[Rao Bahadur R. R. Kale]

by rules, but the rules, after they are made, are to be laid before the House. In a similar manner, I submit that it is very necessary and desirable that wherever certain rules are made by Government in their executive capacity, they should be brought before the Legislative Council, so that the Council may have an opportunity of discussing them, and after they are approved by the Council they should have the force of law. Sometimes the rules contain very important matters affecting the general public, and it is only when they are discussed that the difficulties or inconveniences that may be found to exist in them can be removed.

Now, as I have stated in the amendment, instead of the whole House sitting to deliberate upon the rules, I have suggested that a standing committee, consisting of official and non-official members, should be appointed by this legislature at the commencement of its existence for three years, whenever a new House comes into existence, because members of the old House may go out and new members may come in. The House, at its inception, should appoint a standing committee ; the constitution of the committee would be decided upon by the House ; such committee would be there for the necessary period, and it would proceed to approve of the rules. I submit that the public will then be in a position to exercise a sufficient amount of jurisdiction over the rules which otherwise are made behind their backs. I therefore hope that the House will accept my amendment.

Rao Bahadur S. D. GARUD (West Khandesh District): Mr. President, I beg to support the amendment. In this case, Government would merely be carrying out the letter and spirit of the legislation which has been adopted by the Council, and it is but fair that the rules made under this legislation should be such as will carry out the spirit of the legislation proposed and carried by this Council. I therefore think that a standing committee of the nature proposed should be constituted, to see that the rules made under this clause, which enables Government to frame rules, carry out not only the letter but the spirit of the Act, and it would also be necessary to see that the principles which have been endorsed by the Council are adhered to in the rules made under this Act. I therefore think that a committee of the character proposed is necessary and should therefore be constituted.

Mr. O. ROTHFELD: I venture, in the first instance.....

The Honourable Mr. M. H. W. HAYWARD : Sir, I rise to a point of order. I submit that this amendment is out of order. It seeks to make a fundamental change in the bill as passed by this House at the first reading. The bill provided that the rules should be made after previous publication, which has a very definite meaning, as provided by the General Clauses Act, that is, by publication giving anybody the opportunity of sending in his objections and notifying that those objections will be considered by the authorities which, in this case, would be the Minister, before the rules are sanctioned by the Government. This amendment proposes to do away entirely with that procedure, which has been definitely laid down in the General Clauses Act, and substitute an entirely different procedure.

The honourable member proposes to do away with this publication enabling the general public to offer their views and their objections. He proposes to substitute therefor the criticism not of the general public but of a small standing committee which means that he proposes to push the general

[Mr. M. H. W. Hayward]

public out of the way and leave the matter entirely to the small standing committee .....

The Honourable the PRESIDENT: Who is the final authority ?

The Honourable Mr. M. H. W. HAYWARD: The final authority is the Government, that is, the Minister with the Governor.

The Honourable the PRESIDENT: Was this point raised at the first reading ?

Rao Bahadur R. R. KALE: I do not think so, Sir.

The Honourable the PRESIDENT: Then as it affects the principle of the bill, it cannot be raised at the second reading.

Mr. C. M. GANDHI: The original section, as it stood, was to the effect that Government may, by notification in the *Bombay Government Gazette*, make rules for the purposes of this Act.

The Honourable the PRESIDENT: That, instead of extending the principle, limits it. Rao Bahadur Kale goes beyond the scope of the principle settled by the first reading because his amendment substitutes one tribunal for another which was accepted at the first reading.

Mr. C. C. HULKOTI: I think I stated in my speech that the rule-making authority should rest solely with the Government, the final authority. Therefore this committee may.....

The Honourable the PRESIDENT: Did you say that there ought to be a standing committee of the Legislative Council ?

Mr. C. C. HULKOTI: I do not remember exactly, Sir.

The Honourable the PRESIDENT: What is the point exactly raised at the first reading ? Here I think I had better tell the Council what procedure was adopted by the Speaker in the House of Commons in similar circumstances. Where the bill there concerned proposed that a board shall be created for a certain purpose and an instruction proposed, after the bill had been read the second time, that the board shall be struck out of the bill and that the authority shall be given to another tribunal, the Speaker ruled :—

" This is not in the nature of instruction but rather of a destructive second-reading amendment to the whole bill and it would raise a second-reading debate on the whole principle of the bill. The instruction is therefore out of order." ( Parliamentary Debates ; Official Proceedings ; 4th Series ; House of Commons ; Vol III ; Col. 9.)

There the second reading is equivalent to our first reading here. I adopt that ruling here and rule this out. In the present instance, the point was not raised and discussed and left for consideration at the first reading.

Rao Bahadur R. R. KALE ( Satara District ): The next amendment I wish to move is as follows :—

At the end of clause 27, after sub-clause 3 (e) insert a new sub-clause (f) as follows :—

" (*f*) providing for continuation courses with a vocational bias in the upper primary classes."

The Honourable the PRESIDENT: Is the word 'bias' an appropriate term to use in an Act in this connection ?

Rao Bahadur R. R. KALE : That word has been used in the report of the Technical and Industrial Education Committee as well as in the report of the Primary Education Committee.

The Honourable the PRESIDENT : This word may be very good in a report, in a resolution of Government, and the like, but we are now dealing with legislation. Will the honourable member, the Director of Public Instruction, throw some light on the point ?

Mr. F. B. P. LORY : That word "bias" has been recognised by Government in a certain sense and it carries a specific meaning. It is used in Government resolutions on the subject of education but not in any public documents.

The Honourable the PRESIDENT : "Vocational bias—" what does that mean ?

Mr. F. B. P. LORY : We use the words in this sense : Schools in which education with an agricultural bias shall be given.

Mr. S. J. MURPHY : I suppose, Sir, that it means.....

The Honourable the PRESIDENT : I know what it means. The question is whether in a legal enactment you cannot have a better and a legal phrase, if I may say so.

Mr. S. J. MURPHY : It is not a precise term at all. You can perhaps say "vocational instruction."

The Honourable Dr. R. P. PARANJPYE : May I rise to a point of order, Sir, that this amendment is out of order, because we are dealing with elementary education and primary education ? Continuation courses mean something beyond that. We talk of continuation classes in the case of pupils who are doing other work and in their spare moments, at night, for instance attend some classes. That is what is meant by continuation education and not education in connection with primary education. This is something over and above primary education. So I submit the amendment is out of order.

Rao Bahadur R. R. KALE: Sir, I would point out to the Honourable Minister that he is not correct in the explanation he has given, because I know both the Industrial or Technical Education Committee as well as the Primary Education Committee do contemplate continuation courses for primary education, in the fifth, sixth and seventh standards. I think the Honourable Minister forgets the difference between schools in other countries, where no doubt they might be called middle schools, and our schools. In this country primary education imparted through the vernaculars extends to all education which is imparted from standards I to VII, that is, including the upper primary classes. Therefore, I have added, Sir, in my amendment the words "upper primary classes" meaning classes Nos. V, VI and VII, and the present bill not only deals with elementary education, but proceeds to deal with all primary education, meaning education imparted through the vernaculars, and the Education Committee appointed by this Government.....

The Honourable the PRESIDENT : In order to see whether the point is in order or not, I do not think the Education Committee or the Industrial Committee will help us.

Rao Bahadur R. R. KALE : I mean to say that both those committees have referred to it and we can see whether it is desirable.....

The Honourable the PRESIDENT: It may be desirable; it may be necessary, or it may be the best thing to do. But I must see whether your amendment comes within the scope of this bill.

Rao Bahadur R. R. KALE: I say it does come within the scope of the bill.

The Honourable the PRESIDENT: The point is whether continuation education is part of primary education.

Rao Bahadur R. R. KALE: My suggestion is for providing continuation education for primary education, not for compulsory primary education. I admit that. Primary education is divided into two courses, elementary primary and upper primary. So my submission is that this continuation education does come within the upper primary course. At present that course is purely of a literary type and I am only pointing out that instead of having purely literary courses, now that elementary education is to be made compulsory, a large number of students are likely to take up this continuation education.

The Honourable the PRESIDENT: The honourable member has provided me with the strongest argument why I should rule this amendment out of order. He admits that the amendment which he proposes suggests a provision not for compulsory elementary education, but for primary education. Now, the bill distinctly says: "A Bill to provide for compulsory elementary education and to make better provision for the management and control of Primary Education in the Bombay Presidency." To provide is not the same thing as to manage and control, and the amendment says "providing for continuation courses".....

Rao Bahadur R. R. KALE: What I submit, Sir, is.....

The Honourable the PRESIDENT: I have given my ruling after hearing the honourable member. There must be some end to discussion with the Chair on points of order. I have given my full consideration to the point and say that that word "providing" with which the amendment begins is vital to the amendment.

Rao Bahadur R. R. KALE: In my first reading speech I stated that the statement of objects and reasons stated that this is a bill for the supply, management and control of primary education whereas the preamble omits the word "supply," and I have given notice of an amendment to the preamble.

The Honourable the PRESIDENT: The rule is the preamble merely, as I have more than once said, follows the provisions or the enacting portions of the bill; the enacting portions of the bill do not follow the preamble. The preamble merely declares, and, therefore, it is necessary, in order to make this amendment in order, to show that in the enacting provisions which are in the bill provision is made for primary education apart from management and control, as distinguished from management and control.

Rao Bahadur R. R. KALE: The other day we accepted an amendment relating to books, curriculum, etc., relating not only to compulsory elementary, but primary education.

The Honourable the PRESIDENT: But that is a provision relating to control and management.

Rao Bahadur R. R. KALE: What is a curriculum for primary education?

The Honourable the PRESIDENT : I do not wish to rule the amendment out of order, if there is any enacting provision in the bill which may make the amendment in order. I think we can get over the difficulty on a point of order and let the Council judge the matter, if the amendment be worded as follows :—

"prescribing a continuation course for the purpose of vocational instruction in the upper primary classes."

In that case you do not ask Government to provide for the course ; you merely say "prescribe" the course.

Rao Bahadur R. R. KALE : I accept that amendment, Sir. I have no objection. It will be seen, Sir, that this clause is merely an enabling clause enabling local authorities to prescribe the course. It will be seen that the clauses which have gone before this have already indicated the directions in which a local authority may make certain rules or regulations for the purpose of giving instruction in a particular manner or in particular subjects. Clauses (*a*), (*b*), (*c*), (*d*) and (*e*) have already given indications of the various directions in which a local authority may proceed to make regulations.

Therefore it is a matter which is also left to their discretion. In fact they might be in a position to do this in accordance with the express desire of the Primary Education Committee.

The Honourable the PRESIDENT : What objection is there to accept the amendment ?

The Honourable Dr. R. P. PARANJPYE : If the word 'pre-vocational' is substituted for the word 'continuation' then I do not mind. Continuation classes are for pupils who do not attend schools.

Rao Bahadur R. R. KALE : I have no objection to substitute the word 'pre-vocational.'

The Honourable the PRESIDENT : Now, there can be no going back. Question put that

"After sub-clause (*e*) of clause 27 (3) add a new sub-clause : '(*f*) prescribing pre-vocational courses as part of upper primary education.'"

and agreed to

Clause as amended ordered to stand part of the bill.

Clause 28 (*Repeal of Bom. I of 1918*) ordered to stand part of the bill.

Clause 1 (*Short title and extent*) ordered to stand part of the bill.

*The Preamble.*

Whereas it is expedient to provide for compulsory elementary education and to make better provision for the management and control of primary education in the Presidency of Bombay and whereas the previous sanction of the Governor General required by clause (*e*) of sub-section (3) of section 80A of the Government of India Act has been obtained for the passing of this Act ; it is hereby enacted as follows :—

Rao Bahadur R. R. KALE (Satara District) : Sir, with regard to the preamble, I beg leave to move the following amendment :

"At the beginning of the preamble insert the following :—

'Whereas it is expedient to establish a national system of public education available for all persons by providing a scheme of progressive development and comprehensive organisation leading up to widespread literacy throughout the Presidency of Bombay within a period of ten years.'"

The Honourable the PRESIDENT : Is it borrowed from any Act ?

Rao Bahadur R. R. KALE : Yes, Sir. It is taken from the English Education Act, so far as the phraseology about the establishment of national system and progressive development is concerned.

[Rao Bahadur R. R. Kale]

It will be remembered by the Council that there are two points brought out in the discussion on the clauses relating to the period and the universal application of compulsion within a particular period. When amendments were proposed it was pointed out that it would not be fair to legally bind down Government by legislative enactment inserting a definite period of time.

The Honourable the PRESIDENT: Not that it binds down Government. It is not on that ground I ruled it out of order; but on the ground that it would impose a charge on public revenues.

Mr. C. M. GANDHI: I have also given notice of an amendment which will be more comprehensive.

The Honourable the PRESIDENT: First of all, let Rao Bahadur Kale move his amendment, and if it is carried, Mr. Gandhi's falls to the ground; but, if it is not carried, then Mr. Gandhi's amendment comes in. I have considered the matter to the best of my ability as to which should have the priority, and I have decided that I ought to give priority to Rao Bahadur Kale.

Rao Bahadur R. R. KALE: The preamble, if it is amended as it is sought to be done, will be in the proper form. I know it may be argued that such an amendment of the preamble will affect some of the clauses that have been carried by the Council. I submit, Sir, that it will not affect any of the provisions that have been passed by this Council, because it has been already stated that the preamble is a pious wish and declaration of the object of the measure. My only desire in so amending the preamble is to let the public of the Presidency know that Government, really speaking, are inaugurating an era in which we are laying down the principle and the policy which the Government have in view. Whether the policy will be carried out or not within a definite period and whether education will be made universal, is a different matter. I know, as the Primary Education Committee has stated in their report, that it is not possible to make primary education universal until at least 80 per cent. of the children of the Presidency proper, and 60 per cent. of the children of Sind are brought under compulsion. Also with regard to the womankind it must be stated that it is not practicable for some years to come to bring them under compulsion. Therefore, I have purposely adopted the phraseology of 'wide-spread literacy' in order to safeguard myself against these two circumstances. Having regard therefore to the cautious wording of the phraseology and to the fact that this is merely a declaration, a sort of reason why the Primary Education Act is undertaken, I think it is very desirable and expedient to insert this in the Act. I might observe that the honourable member, the Director of Public Instruction, when he made his speech on the second reading of the bill, intimated to the House that the amendment to the preamble which I had suggested would be accepted by the Government if the Council had no objection. The Honourable Minister has also expressed the same view. Therefore, I see no objection to the amendment which I have proposed.

The Honourable the PRESIDENT: With reference to the honourable member's remarks that the preamble follows the provisions, I have stated that that is correct, but it is also subject to another consideration, namely, where the enacting provisions or parts of a bill are ambiguous the preamble is looked to for the purpose of interpreting the intention of the legislature.

[The President]

The preamble then and then only becomes a key to the enactment. Now, in this case when the question of inserting the words " progressive development and comprehensive organisation.....within a period of ten years " was debated, I ruled that as it imposed a charge on the public revenues it could not be inserted in the bill. It was out of order. Is not that so ?

The Honourable Dr. R. P. PARANJPYE : Yes, Sir.

The Honourable the PRESIDENT : In accordance with that ruling. I ought to rule out this also. The words " within a period of ten years " create a charge not sanctioned by the Governor under section 80C.

Rao Bahadur R. R. KALE : The Government of India Act says....

The Honourable the PRESIDENT : You may if you like take out the words " within a period of ten years."

Rao Bahadur R. R. KALE : Then let us have " within a definite period."

The Honourable the PRESIDENT : That is too vague. Who is to decide what is a definite period ?

Rao Bahadur R. R. KALE : I am just considering how it will appear if we omit " within a period of ten years." I am only trying to find out the sense of the members. I do not know if Government benches will accept it. If you rule it out of order, I have to obey. I move the rest of my amendment.

The Honourable Dr. R. P. PARANJPYE : I leave the preamble in the hands of the Chair. I have no objection to it if the honourable members want to see that words of this nature are added.

Question put

That at the beginning of the preamble, before the words " Whereas it is expedient " add the following words, namely :

" Whereas it is expedient to establish a national system of public education available for all persons by providing a scheme of progressive development and comprehensive organisation leading up to widespread literacy throughout the Presidency of Bombay, and "

and negatived.

The Honourable the PRESIDENT : The next part of the amendment to delete " Whereas it is expedient " and to insert therefor " And whereas for this purpose it is necessary " falls.

Next, Mr. Gandhi's amendment is :

Delete the words : " It is expedient to provide for compulsory elementary education" and insert instead the following :

" It is the declared policy of the Government that the goal of universal free and compulsory elementary education should be reached within 10 years in case of boys and by a definite programme of voluntary expansion thereof in case of girls, and whereas to secure that goal it is expedient to provide for a progressive development and expansion of primary education so as to reach the said goal as stated above."

I am afraid the amendment is wholly out of order.

Mr. C. M. GANDHI (Surat City) : Sir, may I be permitted to say one word ? So far as the Government of India Act is concerned, the model of the local self-government is to be reached by particular stages and that is the declared policy of Government as laid down in that Act although immediate self-government was.....

The Honourable the PRESIDENT : My answer to that is : That is an Act of Parliament and the Parliament is the supreme power of legislation in the Empire, so much so that, as ruled by the Speaker " the House of Commons can disobey an Act of Parliament " and " whether it ought is a matter which

[The President]

I (the Speaker) must leave to the conscience of the House "—(Parliamentary Debates : House of Commons 4th Series, Vol. 178, cols. 1191-2); but here our Legislative Council is a creature of and subject to the conditions in a statute of Parliament, *i.e.*, the Government of India Act, 1919.

Mr. C. M. GANDHI : I understood the Honourable Minister to say times out of number so far as the period of compulsion in the preamble is concerned that there would be no objection to ten years. I think he accepted that declaration of policy, namely that the goal is to be reached within ten years. Of course the goal may not be reached.

The Honourable Dr. R. P. PARANJPYE : May I point out, Sir, that the honourable member from Surat has entirely misconstrued the whole? The goal is not a system of universal compulsion. The goal is free and compulsory education within ten years as contemplated in the report. It is a comparatively limited goal and the programme chalked out by the Compulsory Education Committee.

Mr. C. M. GANDHI : In order to remove illiteracy universal compulsory education would be the goal of Government and Government accepted that policy.

The Honourable Dr. R. P. PARANJPYE : But not in ten years. At any rate Government cannot accept this amendment in the way in which the honourable member has put it, if you say that in reference to any period. I cannot accept the preamble in its terms. I actually made it clear that it is not going to be universal compulsory education in ten years. It is a programme of the Compulsory Education Committee. If that can be brought in I have no objection. But you cannot put into my mouth words which I never uttered.

(*After recess.*)

The Honourable the PRESIDENT : Order, order.

Mr. C. M. GANDHI : I will not say, Sir, that there is an agreement but I hope, Sir, that what I am proposing will meet the wishes of both sides The words, Sir, which I now propose are as follows :—

" Whereas it is the declared policy of the Government that universal free and compulsory education for boys and girls should be reached by a definite programme of progressive expansion and whereas it is expedient to provide for a progressive development and expansion of primary education so as to reach that goal on lines recommended by the Compulsory Education Committee of 1922 appointed by the Government and whereas, etc."

The Honourable the PRESIDENT : I think that is in order.

Mr. C. M. GANDHI : Now speaking to this proposition, Sir, I think it ought to meet the wishes of the honourable members on Government benches and it ought also to satisfy this side of the House. After all this amendment makes it quite clear that the declared policy of the Government is free and compulsory education for both boys and girls. It also provides for a progressive development and expansion on which both Government and non-official members ought to be agreed, that the goal is to be reached within ten or twenty years and that there must be progress made from year to year, and it does not definitely bind Government to any particular stages but gives Government an opportunity to arrive at that goal, which is the goal of both official and non-official members and Government on the lines recommended by the committee which was appointed by Government. I, therefore, hope my honourable friends on this side will support me and Government will be in a position to accept this proposal.

Question put—

That at the beginning of the preamble the words 'Whereas it is the declared policy of the Government that universal free and compulsory elementary education for boys and girls should be reached by a definite programme of progressive expansion and whereas it is expedient to provide for a progressive development and expansion of primary education so as to reach that goal on lines recommended by the Compulsory Education Committee of 1922 appointed by the Government and whereas, etc.' be added,

and agreed to.

The Honourable Dr. R. P. PARANJPYE : I would propose, Sir :

"Add the words 'for this purpose' after the words 'whereas it is expedient' in line 1 of the preamble as it stands in the bill as amended by the select committee."

The Honourable Mr. M. H. W. HAYWARD : We have not really had an opportunity of knowing exactly what the amendment was ; I have been trying to follow it, but I am still very vague as to what the amendment was.

The Honourable the PRESIDENT : It is not my fault. If honourable members have not been present here, I cannot help it.

The Honourable Mr. M. H. W. HAYWARD : I was present here all the time. I was taking it down as far as I could.

The Honourable the PRESIDENT : The result has been declared, and before putting it to the vote I asked if anybody wanted to speak. I cannot go back.

The Honourable Mr. M. H. W. HAYWARD : We do not know what the amendment is yet. I am still in the dark as to what it is.

The Honourable the PRESIDENT : I must say that no one is right in protesting because the question was duly proposed, speeches were invited and when nobody rose I said I would put it to the vote, and it was put and decided by the House. Afterwards it is out of my hands. It is not my fault.

Rao Bahadur R. R. KALE : Sir, I have got a small amendment.

The Honourable Mr. M. H. W. HAYWARD : We should like to have the exact terms of the amendment which has been passed. If the Secretary reads it out, we shall be able to appreciate the further arguments. It was a new amendment, and we were put in an extremely difficult position.

The Honourable the PRESIDENT : I read it out very slowly as I always do for the benefit of the Council and of the official reporter. I have been putting forth all the strength of my voice, at the risk of losing it, so that even the honourable members at the farthest end may hear.

Mr. C. M. GANDHI : We have been in the same predicament where we have not been able to follow amendments moved on the other side.

The Honourable the PRESIDENT : I read it out slowly. There is the Minister in charge, he is responsible, and if anything goes wrong, he ought to rise. How can business go on in this way ? After all, the amendment has passed and cannot be recalled.

The Honourable Mr. M. H. W. HAYWARD : I have nothing more to say, Sir.

The Honourable the PRESIDENT : I am merely saying, that honourable members, whether Government Members, Ministers, or non-official members, are entitled to the same treatment from me, and I think it is the duty of every-

[The President]

one to be vigilant. I am trying to do my best and I am reading out the terms of every motion deliberately so that everybody may catch the words.

Question put

That the words 'for this purpose' be added after the words 'Whereas it is expedient' in line 1 of the preamble,

and agreed to.

Rao Bahadur R. R. KALE (Satara District): Mr. President, there is one more amendment to the preamble which I wish to move. It is:

"Add the word 'supply' between the words 'better provision for the' and 'management and control of primary education.'"

The Honourable the PRESIDENT: The word "supply" means provide. However, I rule it out of order upon the ground that it is a point which ought to have been made at the first reading.

Rao Bahadur R. R. KALE: I did raise it in the first reading. At the first reading, I said that this word was not in the preamble, although the statement of objects and reasons contained it. The statement of objects and reasons said:

"The object of this Bill is to carry out the recommendations of the Committee appointed to consider the question of compulsory education. It provides the machinery necessary for the working of a scheme of compulsory elementary education by a local authority and the opportunity is taken to make improved arrangements for the supply of primary education."

At the first reading of the bill, I had mentioned this point. It is not only for elementary education, but for the supply of primary education as well.

The Honourable the PRESIDENT: You have already said 'progressive' several times.

Rao Bahadur R. R. KALE: It is in the statement of objects and reasons. The Act provides not only for elementary education but also for primary education.

The Honourable the PRESIDENT: The moment you say 'supply' it brings in the question of finance. For the supply of education money is required. Without money you cannot supply.

The Preamble, as amended, ordered to stand part of the bill.

The Honourable the PRESIDENT: Bill No. XVII of 1922, a Bill to provide for compulsory elementary education and to make better provision for the management and control of primary education in the Bombay Presidency is declared to have been duly read a second time.

The Honourable Dr. R. P. PARANJPYE: Mr. President, before we go on to the third reading of this bill, I wish to make a statement declaring the exact policy of Government with regard to the amendments that were carried by this Council, and I ask for your permission to do so.

The Honourable the PRESIDENT: Yes.

The Honourable Dr. R. P. PARANJPYE: I might mention that grants for buildings involve a large capital outlay. Government are not in a position to say whether they will be in a position to sanction any schemes which provide for building school-houses. They will necessarily give preference to schemes which do not involve the construction of any buildings for schools. They will, however, consider special cases in which a limited number of school-houses on a modest scale are essential.

## AN ACT TO IMPOSE A DUTY IN RESPECT OF ADMISSION TO ENTERTAINMENTS IN THE PRESIDENCY OF BOMBAY (BILL No. XX OF 1922).

Third Reading.

The Honourable Mr. H. S. LAWRENCE : Mr. President, I rise to move the third reading of the Entertainments Duty Bill Bill No. XX of 1922. I think the matter is fresh in the minds of the members of this House and I do not think it needs any further discussion or explanation from me. The House has accepted certain amendments with regard to the tax on admission tickets to entertainments. It has given exemption to the lower seats in cinemas and it has retained, contrary to the advice of Government, the rate of 50 per cent. tax on admission to the race-courses. I think, Sir, the third reading of this bill will be carried unanimously by this House.

The Honourable the PRESIDENT : Has any honourable member any verbal amendments to move ?

Bill read a third time.

Question put and agreed to.

Bill declared to have been duly read a third time and passed.

## A BILL TO CONSOLIDATE AND AMEND THE LAW RELATING TO LOCAL BOARDS (BILL No. XVI OF 1922).

Third Reading.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I move, Sir, that Bill No. XVI of 1922, a Bill to consolidate and amend the law relating to local boards, be now read a third time.

The Honourable the PRESIDENT : Are there any verbal amendments which any honourable member wishes to move ?

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Yes, Sir. I have a few verbal amendments to suggest.

"In sub-clause (*d*) in clause 9, add the word 'or'."

I want to make it "or is a stipendiary officer, etc."

The Honourable the PRESIDENT : That word "or" does occur after the Explanation.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I wanted to propose that the Explanation, instead of coming in the body of the clause, might come at the end of sub-clause (1) of clause 9.

The Honourable the PRESIDENT : No. "Or" is already there. It is not a verbal amendment ; it is a material amendment. I cannot allow it now as the Council has passed the Explanation.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Then, Sir, another amendment is :

"That in sub-clause (2) of clause 9, after the words 'under clause' and before the words 'sub-section (1) for,' the letter (*e*) be left out, and the letter (*f*) be inserted instead."

Amendment carried.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : My next verbal amendment is :

"In sub-clause (*c*) of clause 75, change the figure '96' into '95.'"

Amendment carried.

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN: I have one more verbal amendment, Sir:

"In clause 97, change the figure '96' into '95.'"

Amendment carried.

Bill read a third time.

Question put: that Bill No. XVI of 1922 (A Bill to consolidate and amend the law relating to local boards) as verbally amended be read the third time, and agreed to.

The Honourable the PRESIDENT: Bill No. XVI of 1922 (A Bill to consolidate and amend the law relating to local boards) is now read the third time and I declare it duly passed.

## A BILL TO PROVIDE FOR COMPULSORY ELEMENTARY EDUCATION AND TO MAKE BETTER PROVISION FOR THE MANAGEMENT AND CONTROL OF PRIMARY EDUCATION IN THE BOMBAY PRESIDENCY (BILL No. XVII OF 1922).

Third reading.

The Honourable Dr. R. P. PARANJPYE: Sir, I move the third reading of this bill, and in doing so I would mention that the bill has emerged from the select committee and the Council, I hope, according to the wishes of the honourable members. I only hope that honourable members will not be content with having passed the bill, but do their best to carry it out, and carry out the provisions. (Hear, hear.) I need not go into any detail, but I wish to mention that there was one undertaking asked from me by the select committee as regards the municipalities which are to be allowed to manage their own schools. I may mention that it is not proposed to take away the power of any municipality without consulting them. In the case of minor municipalities it may not be possible in all cases, but ordinarily, we shall consult the wishes of the municipalities concerned before taking away their power. I do not wish that this Act should share the fate of the Patel Act, and hope that we have by this and the two preceding bills taken further large definite steps in advance. In the one we have made provision for certain amount of money to be placed in the hands of the Government, and in the other local bodies are given more resources. I hope the honourable members of this Council who are presidents of district local boards will improve the resources that have been given to them and make the actual working of this Act successful. I have got certain verbal amendments to be moved. The first is:

"That in clause 16 (1) the words 'in particular' be inserted after the word 'purpose.'

Amendment carried.

The Honourable Dr. R. P. PARANJPYE: The next amendment runs as follows:

"That in clause 19 (*d*) after the words 'approved schools' the following words be added: 'to which he can be admitted.'"

Amendment carried.

Bill read a third time.

Question put and agreed to.

The Honourable the PRESIDENT: Bill No. XVII of 1922 (A Bill to provide for compulsory elementary education and to make better provision for the management and control of primary education in the Bombay Presidency) is now read the third time and I declare it duly passed.

Mr. IBRAHIM S. HAJI: May I interrupt, Sir? I want to put a question to the Honourable the Home Member with regard to the third enclosure at the

[Mr. Ibrahim S. Haji]

Mahaluxmi race-course. May I know whether the Honourable Member will be pleased to make the statement about the third enclosure as promised by him before the end of the session ?

The Honourable Mr. M. H. W. HAYWARD: Mr. President, I have received the reply from the Secretary to the Western India Turf Club. He states that it is a fact that the third enclosure has been opened at the Mahaluxmi race-course. One rupee is charged for admission and the unit of stakes on the totalizator is three rupees. As it did not in any way cause any breach of the license granted under date the 16th of August 1922, it was opened without reference to Government.

He states the principal reason for opening the third enclosure to be that since the centre of the race-course has been filled in, a crowd varying from 3,000 to 5,000 have in the past years collected in the centre of the race-course where they partly obstructed the view from other enclosures and either betted among themselves or with so-called bucket-shop book-makers who were outside the control of the Turf Club. He adds that a very large proportion of those who attended the races last Saturday in the third enclosure did not bet, but went apparently only to view the races and that this enclosure has been specially made to enable the public to obtain an excellent and immediate view of the whole course for the very small sum of one rupee. He observes that the Turf Club has thus given the greatest possible comfort to those who in the past could have practically seen nothing of the racing.

There is only this for me to add, Sir, that race-courses were specially excluded from the operation of the recent amendment relating to bucket-shops passed at a recent session of this House.....

Mr. C. M. GANDHI: It is admitted that an enclosure has been opened where admission is for one rupee. Does Government propose to take any action to stop it ?

The Honourable Mr. M. H. W. HAYWARD: Sir, I do not know the exact position of my honourable friend. Is this a supplementary question ?

The Honourable the PRESIDENT: When a statement is made on behaf of Government the House of Commons procedure is: no debate can be allowed unless there is a proper motion relating to the statement; but in order to make the position of the Government clearer and to throw further light, any honourable member is entitled to ask supplementary questions.

The Honourable Mr. M. H. W. HAYWARD: I understand the honourable member is asking a supplementary question. May I ask what the question is ?

Mr. C. M. GANDHI: In view of the fact that admission to the enclosure on payment of a small fee would attract poor people and lead to disastrous results does Government propose to take any action to stop it ?

The Honourable Mr. M. H. W. HAYWARD: I have only to say, Sir, that the honourable member refers to the question of fact, whether the opening of the enclosure would or would not lead to disastrous results. It is within the memory of all honourable members here that race-courses were specially excluded from the amendment relating to bucket-shops. So, apparently at that time it was the opinion of honourable members that such disasters would not result from admission to race-courses where betting is very carefully controlled under the provisions of the Race-Courses Licensing Act. There is only this for me to add, and that is that this letter was only received

[Mr. M. H. W. Hayward]

by me just now and that it would not be possible for me to express further our opinion or indicate our intention without placing the matter in regular order before Government.

Mr. IBRAHIM S. HAJI: Sir, the Honourable the Home Member has made a statement with respect to the question I wanted to put on the 11th instant. That question is whether Government are aware that the Western India Turf Club, the licensee of Government under the Bombay Race-Courses Licensing Act of 1912, has introduced a third enclosure, and if so are Government aware that such introduction negatives the effect of the recent amendment of the Bombay Prevention of Gambling Act of 1887, whereby bucket-shops and sporting clubs have been totally suppressed, and if so are Government prepared to close this third enclosure by an express condition in the terms of the license issued to the Turf Club.

The Honourable the PRESIDENT: What is the question you want to ask now?

Mr. IBRAHIM S. HAJI: Whether they intend to close the third enclosure by any means?

The Honourable the PRESIDENT: There are three parts to the question by the honourable member. The first is whether the Government are aware that a third enclosure has been opened. The answer has been given "Yes." Secondly, whether by opening such a third enclosure and enabling poor people to go into it the Turf Club has not negatived the intentions and provisions of the Bucket-Shops Act. The answer to that has been given in reply to Mr. Gandhi's supplementary question, and that is that the race-course was deliberately excluded from the Bucket-Shops Act by the Council and that by enabling the poor people who are gambling outside to go into the third enclosure, these poor people are controlled in point of betting, whereas outside they are not. That is the answer. I am not concerned with its merits. Then again, the contention of the honourable member (Mr. Haji) is that the Turf Club has broken the provisions of the license. The answer is, in the opinion of the Government it has not. Then there is a possibility of argument and that probably is what has been contemplated by the third part of the question. Mr. Gandhi pointedly asked "What does Government propose to do?" The answer to that has been given by the Honourable the Home Member, that he received the Turf Club's answer only to-day; that he has not placed that letter yet before the Cabinet presided over by His Excellency; and that what the Government proposes to do in the matter is a thing which will have to be decided after the matter has been regularly considered by the Government. Now, if the honourable member wants to do anything, I think the best course for him to do is to wait until the next session which will be in February and until then see what Government are doing and by the light of that take such action as he deems proper.

Mr. IBRAHIM S. HAJI: When the Government made the statement, when the amendment of the Prevention of Gambling Act.....

The Honourable the PRESIDENT: I am afraid I am allowing too much latitude. If the honourable member for Bombay has any question to ask, he may put it, but this is not a time for a debate: there is no motion before the House.

Mr. IBRAHIM S. HAJI: The House exempted the race-course when the race-course.....

The Honourable the PRESIDENT: Order, order. The honourable member is not respecting my ruling. He is debating. That is a question for debate when a motion is made—it will be open to the honourable member to make one in proper time though I do not commit myself—at the next session. Government surely must have some time to decide what course of action they shall take in the matter. I understand the Honourable the Home Member to say that he offers no definite opinion at present because Government have to consider and decide. When they have decided, it will be open to any honourable member either to ask for leave to move the adjournment of the House to discuss the matter or to raise a debate otherwise, under the Standing Orders.

Mr. IBRAHIM S. HAJI: Shall I take it that this is an *ad interim* statement.

Mr. KANJI DWARKADAS: Is it not a fact, Sir, that when this Council exempted betting on the race-course there were only two enclosures?

The Honourable the PRESIDENT: That would be a matter for argument and debate on the proper occasion.

Mr. KANJI DWARKADAS: Will the Government kindly bear in mind public opinion?

The Honourable the PRESIDENT: Order, order. Government will always, I hope, bear public opinion in mind. Whether they have borne or not may be left for debate when and if it is raised.

Mr. C. M. GANDHI: Was there any previous correspondence between the Secretary of the Turf Club and Government prior to this matter?

The Honourable Mr. M. H. W. HAYWARD: No.

## DISCUSSION OF MATTERS OF GENERAL PUBLIC INTEREST.

The Honourable Dr. R. P. PARANJPYE: Sir, I beg to move for the acceptance of this Council the following resolution:—

"This Council recommends to Government that the Bombay Presidency do participate in the British Empire Exhibition to be held in London in 1924, that gross expenditure of Rs. 1,80 000, involving net expenditure not exceeding one lakh, be incurred and that funds be provided for the purpose as required in the course of the next two years and that an organising committee be appointed to co-operate with the Director of Industries in carrying out this resolution."

Mr. G. C. BHATE: Sir, I rise to a point of order. Circular No. 2047 which has been issued to honourable members says that the next meeting will merely be a continuation of the September session and that no notices of questions and resolutions have to be given.

The Honourable the PRESIDENT: Order, order. The honourable member has not read the Standing Orders. A resolution may be allowed to be moved although it is beyond time in point of notice, if the President allows it with the concurrence of the Minister concerned. In the present case the Honourable Minister himself brings the resolution and I have allowed him to bring it.

The Honourable Dr. R. P. PARANJPYE: Sir, the first great Colonial and Indian exhibition was held in 1886 in London at which India was officially represented on a large scale. Small exhibits were also shown at the Paris

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Exhibition of 1900 and the Franco-British Exhibition of 1908. It is, therefore, more than 36 years that India has had an opportunity of demonstrating to the world on a large and comprehensive scale something of her commercial and industrial importance. The growing importance of this country as a factor in the modern world of commerce and industry is not fully realised by the world at large. An opportunity to remedy this is afforded by the British Empire Exhibition in 1924 which will be the greatest exhibition ever held. Nowadays India is a large borrower in the London market and an exhibition on an adequate scale, the wealth of her resources and industries will certainly enhance her credit and the credit of the country and enable her to borrow money on easy terms. India's participation therefore is advisable not only from an imperial and sentimental point of view but also for her direct material benefit. The same considerations, Sir, apply to the participation of this Presidency. We have a standing controversy with the Government of India and the other provinces in the matter of provincial contributions owing to the fact that our position as an industrial province is not recognised. We are also borrowing on a very large scale both in India and in the Home market. It is necessary for us, therefore, to participate on a scale large enough to demonstrate the industrial and commercial importance of this Presidency. We have large schemes costing over crores of rupees such as the Bombay Development, the Sukkur Barrage, the Port Trust. These schemes have recently been talked of in London, and it is necessary for securing loans on easy terms and to enable us to borrow on an extensive scale that the money markets of the world should have a proper idea of the nature and value of such schemes.

His Majesty the King is the patron of the exhibition and His Royal Highness the Prince of Wales is the President of the Central Committee. The objects of the exhibition are, firstly, to bring before the visitors from all parts of the world exhibits illustrating the arts and crafts, industries and inventions, the raw materials and various products of the Empire. Secondly, to make the various peoples of the Empire better known to each other, to show how they live and work, demonstrate their principal means of livelihood and resources of their wealth and importance. Thirdly, there is to be an important scientific side which will arrange displays calculated to arouse public interest in the conquest of disease. The diseases of plants that are hindering agriculture will also be subject of discussion. Fourthly, the exhibition will enable established industries to show what they have to offer, and new industries to attract attention by demonstrating their capabilities.

The idea of this exhibition has been taken up with enthusiasm throughout the Empire. A general guarantee fund of a million pounds has been subscribed in England. The Dominions and the Colonies have also made extensive arrangements for participation and voted large sums of money for this purpose.

Mr. IBRAHIM S. HAJI: The Honourable Minister is reading his speech.

The Honourable Dr. R. P. PARANJPYE: I am allowed to read from my notes. India has secured what is regarded as the finest site in the exhibition grounds and the Indian Commissioner to the exhibition, Dewan Bahadur Vijayaraghavacharya, has been appointed. An advisory committee has been formed in London. A resolution similar to the one now being moved was moved by the Honourable Mr. Innes in the Legislative Assembly which has

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agreed to India's participation and the provision of the necessary funds. It has been directed that the Central Government, the Provinces, the States and private firms should all co-operate in preparing India's exhibits which will be divided into two main sections, all-India and Provincial, all housed under one roof. The all-India section will be devoted to large industries and products of universal importance and those activities of Government that bear upon the development of the nation as a whole, iron and steel, and their working, coal and oil, salt, the principal agricultural products, tea and coffee, cotton, etc. The provincial exhibits will take the form of special arts and crafts, cottage industries and other features peculiar to the province. The Bombay Presidency can exhibit in its provincial court hand-woven articles, calico prints, gold and silver cloth, embroideries, silver work, carved wood work, lacquer ware, carpets, mural decorations of the Bombay School of Art, and so on.

The Honourable the PRESIDENT: Has the Honourable Minister received His Excellency's previous sanction to this motion?

The Honourable Dr. R. P. PARANJPYE: Yes, Sir. The total space alloted for the exhibition is 98,500 square feet divided into sixteen sections. The Punjab Government have asked for 18,500 square feet or a three anna share for its exhibits, while Madras has asked for 12,500 square feet or a two anna share, and the United Provinces for about 6,100 square feet or a one anna share. It is proposed that Bombay should ask for 6,100 square feet, of which 4,000 square feet would be the exhibiting area, after deducting passages, etc.

The Central Government will bear the initial cost of erecting all the buildings and a proportionate share on maintenance, lighting and other incidental charges. The provinces and States will pay rent for their sections and for the space occupied by their exhibits in the all-India section. They will also bear a proportionate share of the maintenance and the incidental charges. Fifty per cent. of the profits from the whole exhibition will be divided among the participating countries and India's share will be divided proportionately between the Central Government, the provinces, States and private bodies according to their shares. It is anticipated that the greater part of Bombay's share of the 4,000 square feet will be in the all-India section, exhibiting large industries like Agriculture and Forests, while a smaller portion will be occupied by Bombay's provincial court, exhibiting its special arts and crafts. It is anticipated that the Development Department will put in exhibits, showing the Bombay Development scheme; a model of the Sukkur Barrage scheme will also be exhibited, and it is hoped that other public bodies like the Port Trust, the Improvement Trust, the Bombay Municipality, etc., will also share. In case they do, each of these bodies will of course bear its proportionate share of the total cost.

As for the cost, when the scheme first came before us, the Director of Industries had estimated it as follows:—

| | Rs. |
|---|---|
| Rent for floor space and share of maintenance and equipment .. .. .. | 1,00,000 |
| Cost of the all-India exhibit .. .. .. | 1,00,000 |
| Provincial court .. .. .. | 60,000 |
| Total .. | 2,60,000 |

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Out of these, he anticipated that Rs. 45,000 would be recoverable from the sale of the arts and crafts exhibits in the provincial court, and perhaps Rs. 15,000 more by subletting to public and private bodies. The all-India Commissioner, Dewan Bahadur Vijayaraghavacharya, has recently stated that the cost of the all-India exhibits would be Rs. 20,000 instead of Rs. 1,00,000. That reduces the estimate by Rs. 80,000. It may be noted, however, that the Director of Industries does not agree and has called for further information from the all-India Commissioner. It is further anticipated that Rs. 25,000 to Rs. 50,000 may be recoverable from public bodies, such as the Port Trust, the Improvement Trust, the Bombay Municipality, the Development Department, etc. It is also suggested that the Karachi Port Trust, the Bombay and Ahmedabad Millowners' Associations and important private firms such as Messrs. Tata may be approached with a view to their participation.

The Finance Committee, before whom this question was placed, have also agreed to the participation, on the understanding that the net cost to the provincial revenue should not exceed Rs. 1,00,000. If Rs. 45,000 are recovered from the sale of exhibits and a further sum of Rs. 35,000 at least is recovered from the public and private bodies, this net expenditure will not be exceeded.

It is proposed that an influential organizing committee should be appointed to bring the exhibition to the notice of the public, to devise the best methods of securing the exhibits and arranging for their transport, for approaching public bodies and private firms and enlisting their support and collecting any contributions that may be required for the purpose.

Mr. President, I have been careful to have this statement written out, because honourable members of this House will understand exactly what it is that I have proposed. The gain to this Presidency in its participation in this exhibition, is perhaps not absolutely direct, but when our Presidency has been going in for large schemes, we have to advertise ourselves as other large bodies do in England. Important seaside resorts in England spend a large amount of money in advertising. If the local bodies were to be asked what is the direct return to them by their advertisements, and which particular people came to those resorts on account of their advertisements, the answer of course could not be given, but there is no doubt at all that a general increase in their resources will be obtained by this process of advertisement.

Mr. President, I leave out of consideration some of the arguments that might be urged in this House or outside against our participation, but I believe that it has now been accepted as a general opinion that, whatever our grievances may be, India's future is committed to its position in the British Empire. It is not possible for India, for as long as we can see the future, to cut herself adrift from the Empire, and plough her lonely furrow. It is necessary, therefore, that India should advance in the future, by maintaining and improving her place in the Empire, and in order to show to the whole Empire, and, in particular, to the people of the United Kingdom, that India is an important part of the Empire, on whose participation not only the greatness of India herself but to a great extent the greatness of the Empire will depend. It is necessary for us to show that India is great and is growing, and that her importance will be greater and greater in the future. In order that this may be brought home to the people of the United Kingdom, it is necessary that India should make a great show in that exhibition, and it is for this purpose that the Legislative Assembly, which represents the whole of India, has accepted this proposal.

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Bombay has, over and above its importance as a part of the Empire, certain special liabilities, responsibilities and duties of its own, and it is necessary, I believe in the wider interests of the Bombay Presidency, that we should participate and make a good show, so that not only will India cut a splendid figure in the Empire, but in India Bombay will find a very bright place in that exhibition. It is both for sentimental and for material reasons that I think our participation is necessary, and I therefore propose that the Council should pass this resolution.

The Honourable the PRESIDENT: I understand that the honourable member for Bombay (Mr. Lalji Naranji) wishes to move an amendment. I must see whether it is in order. If anybody else has any amendment of which notice has been given, then I will allow two or three speeches on the motion so that the House may be acquainted with the general aspect of the question, and then any honourable member who wishes to move an amendment may move it and make a speech on the motion and the amendment taken together.

Rao Bahadur S. D. GARUD (West Khandesh District): Would it not be better, Sir, to have the amendments before the House first and then to speak both on the resolution and the amendments at the same time?

The Honourable the PRESIDENT: In the case of resolutions, it is always desirable that the House should, first of all, clear the ground for an amendment. One or two speeches may first be made on the resolution and then we can have the amendments. You can speak on the resolution now and you will have another speech on the amendment.

Rao Bahadur S. D. GARUD: That is the difficulty.

The Honourable the PRESIDENT: That is not the difficulty. I say you have the right of making another speech, on the amendment.

Rao Bahadur S. D. GARUD: Mr. President, I give my hearty support to the resolution moved by the Honourable Minister and trust the House will accept it.

Rao Saheb D. P. DESAI (Kaira District): Mr. President, I oppose the resolution moved by the Honourable Minister for Education. I would strongly object, Sir, to the creation of this charge on the public revenues, as our finances are in such a bad condition that we cannot participate in such luxuries. The Honourable Minister has stated that by participation in this exhibition the Bombay Presidency will stand to gain. I doubt that statement. I do not think that exhibitions that have been held in Europe up till now have ever benefited this Presidency in the past and I should think, Sir, that it is extremely doubtful whether this exhibition will ever benefit this Presidency. Now, let us see in what matters and how our Presidency is going to be benefited. Our Presidency since the last exhibitions that were held in England or Europe has not progressed in industries sufficiently to entitle it to have a place at such an exhibition and as our industries are not superior to the industries of any European country, we do not expect that some European or Colonial countries may be our customers, *i. e.*, customers for our industrial products. They would say: "No. When the United States are offering the same things cheaper and better, when Japan is offering the same things cheaper and better, we do not want your things." So, as we have no new and better things worth creating a market for, I should not think, Sir, that we should participate in such exhibitions. Our Honourable Minister says that exhibition of our

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industries at the exhibition will greatly benefit this Presidency. But what is the use of exhibiting any industries which are not likely to be of any use to the outsiders? Perhaps, if the Honourable Minister wants to have the exhibition of our poverty by showing the poor condition of our industries, I have no objection to his making that exhibition so that others may know that the industrial condition of India is very poor. But, if he wants that our industries should be exhibited there to show our satisfactory condition and prosperity, I should think the less we participate in such exhibitions, the better.

He has referred to some agricultural benefits to this country by this participation. I venture to ask the Honourable Minister whether during the course of so many years since the Agricultural Department was started in India we have evolved any products or introduced any new variety superior to those evolved by our forefathers. We have not added even a single variety of grain to those evolved by our forefathers. We have not added to the number or increased the production either of milk or of grain per acre. Sir, while in many other countries many species and varieties of grains and other agricultural products have been introduced and improved, we have made little or no progress in that direction. We have not improved the work of our forefathers, and I wonder whether the Agricultural Department here, with all the sciences and scientific discoveries or inventions at their back have even done a hundredth part of what has been done in the past. That is a fact and that has to be admitted and remedied. Again he has referred to the plant diseases and thinks we might derive some advantage from this exhibition; they require to be investigated, and he thinks that this exhibition will benefit the Presidency by showing some methods to remove them. I also doubt that statement, because if you want to eradicate or remove the special diseases to which plant life or animal life is liable in the tropical climates, it is better to have investigations carried out here. By going there and spending there you will not be able to do that. Still if you think you will enjoy any benefit out of it, you have so many students from this Presidency studying in England, whom you can very well ask to go and attend that exhibition and to see and study these matters and send their reports and observations, whatever they may be. They being scientific persons would appreciate such things all the more, and are likely to study carefully.

I have shown, Sir, that our exhibits are, of course, very poor, ours being a very poor country. I have shown that agricultural products we are not in a position to show. Even if we were in a position to show our agricultural products, we do not want any market for those products in other countries, because, Sir, we have our own markets here for our raw materials and our products are being already taken up in our own country by other countries and there is no necessity for further extending the market for those products as there is no surplus to be disposed of. The markets that we have already are quite enough.

Sir, the Honourable Minister has touched upon mural work of the Bombay School of Art. I should think that it would be better if that mural work of the Bombay School of Art is kept for our own consumption. No European country will appreciate the mural work of that school. I do not mean to pass any reflection on the School of Art, but at the same time I say the mural work and the paintings, or for that matter any work of art of that school would be of no use for exhibiting there, for works of art of Western countries are so excellent and the art so advanced there that it is no use exhibiting the School

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of Art work there. Of course, if you want to exhibit oriental art, and if you want to create a market for our oriental manufactures, there can be no objection ; but it is not your concern. Oriental art and manufactures are found in Native States. Let the Native States exhibit them ; it is their and not our concern. I do not see any necessity at all for participating in an exhibition from which we shall get neither benefit nor appreciation . From the interest of one lakh and eighty thousand you can maintain four students in England for study ; or you can build 60 school-houses in this country or maintain at least 30 primary schools. For these reasons I cannot bring myself to agree to this proposal for participation in the British Empire Exhibition to be held in England. However, if my honourable friend is very fond of exhibitions I can only say that from the interest of the amount asked for now you can hold an exhibition of the articles produced in this Presidency every year which will be more profitable than participation in the British Empire Exhibition. If you participate in it, you will be exhibiting yourself. So, as there is no benefit to us, I oppose this resolution.

Sardar Khan Bahadur A. M. DALAL (Broach District) : Sir, I have great pleasure in giving my hearty support to the resolution so ably moved by the Honourable Minister, and I am sure it will have the sympathy and support of this House. I do not agree with the remarks of my honourable friend for Kaira (Rao Saheb Dadubhai Desai). Exhibitions are very good, and particularly this is an Empire Exhibition and is bound to exert beneficial influence on the trade especially of India, and still more so of this Presidency. We claim to be partners of the Empire, and when an Empire Exhibition has been arranged, it is our bounden duty to participate in it not only loyally, but also generously. We should not look into the profit and loss account, but we should look to the future benefit that will accrue by our participation in this exhibition. I am sure the Council will give its hearty support to it, as the grant asked for by the Honourable Minister is very moderate.

Mr. G. B. TRIVEDI (Thana District ) : Sir, it is my painful duty to oppose this resolution. I accept the dictum laid down by the Honourable Minister for Industry that India's future is bound up with the British Empire as a component part. I accept that dictum ; and I am proud to belong to that political party, which believes that India's future will be brightened if you accept that position. But, Sir, while I am an enthusiast about remaining in the British Empire, I want to ask the Honourable Minister whether the statement he made that India is great, India is growing, and that India is an important part of the Empire has been recognised in the Empire. If that is recognised, not only by Great Britain but by the other component parts of the Empire, I am willing to give my whole-hearted support to this participation. What is the position, Sir? The position is that, while we take pride in saying that India is an important part of the Empire, that India is growing, and that India is great, what is the treatment given to us in the Colonies ? We are treated like pariahs, like untouchables. I need not say anything more on this point. It is very well known to this Council and to the public outside that our position in the Colonies is anything but desirable. In that position do you want that we should co-operate ? I am for co-operation, but I am for responsive co-operation. If there is a response from other parts of the Empire that India is to be treated as she deserved to be treated she will be willing to take her share in the exhibition. But, with the feeling that we are treated like pariahs in the Colonies, the public will not be in a mood of willingness to participate in the

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exhibition. The public feels that they should not participate in the exhibition until their grievances are redressed, merely to show to the world and especially to the Colonies of the Empire that India is standing aloof, because she resents the treatment given to her in the Colonies. Till her position is retrieved, I feel, as an Indian, and I am sure every one in this Council and outside will feel so, that we ought not to participate in that exhibition.

I wish to quote the opinion of so great an authority as Sir Dorab Tata in support of my position. He said that the treatment accorded to Indians in Australia and other Colonies is so humiliating that India should adopt retaliatory measures. When such a great industrialist as Sir Dorab Tata, whose spirit of co-operation cannot be doubted, says like that, we, as Indians, ought to show our resentment, while acknowledging that we are part of the Empire, by refraining from participation in this exhibition. Our absence will be marked, and will have a very good effect. From that point of view I oppose participation in this exhibition.

Not only the industrialist but the Government of India have adopted the same position. The other day it was explained to us at a public lecture that the Government of India is writing to the Imperial Government and to the Colonies that, unless the position is reversed, Government of India and people of India will have to take a serious attitude against the other parts of the Empire. We ought to strengthen the hands of the Government of India and therefore I think we should not participate in that exhibition.

In support of my position I beg to bring to the notice of this House that the Indian mercantile community also feels in the same way. Over and above the Indian public, which is undefinable, the Indian mercantile public feels the position as I have described. I know the feelings of the Indian Merchants' Chamber and Bureau, and they have repeatedly opposed this participation in the exhibition. But it is not merely that body that has protested against this participation, but also another important body, whose opinion was sought by Government—a body which was created by Government to help the Director of Industries—that body in two meetings successively resolved "That this committee's opinion is that we should not participate in that exhibition." And they made it quite clear that they opposed the participation on the ground of the ill-treatment given to Indians in other parts of the Colonies. Now, Sir, it has been stated that the Indian Legislative Assembly has resolved to participate. But when was that resolution passed? It was in February or March. At that time the Kenya position was not so bad, but after that the position of Indians in Kenya has become worse, and is becoming worse and worse even now. Even the other day the new Colonial Secretary said that he would leave the matter entirely in the hands of the men on the spot, so that he wants to leave the Indians to the tender mercies of the Government there and the European community. Sir, thoughtful Englishmen have understood our position; they do not misunderstand us; they themselves, if they were in our position, would do the same. It is a question of patriotism. If my brethren are insulted, how can I take part in a great show of festivity along with those who insult my brethren? If my brethren are insulted, I refuse to take part in the family celebration. This is the time for us to impress on the Colonies that India feels very much the treatment given to the Indians.

Before I drop this question, Sir, I will read the object that was laid down by the High Commissioner in England.....

The Honourable the PRESIDENT: Honourable members may be reminded that we are now dealing with a resolution and the Standing Orders allow thirty minutes only for the honourable mover and fifteen minutes only for each of the other speakers.

Mr. G. B. TRIVEDI: That object, Sir, as laid down by the High Commissioner.....

The Honourable the PRESIDENT: You have nearly exhausted your fifteen minutes, I think.

Mr. G. B. TRIVEDI: Well, then, if you will permit me I will come to the industrial point of view.....

The Honourable the PRESIDENT: You have just four minutes left.

Mr. G. B. TRIVEDI: Now, Sir, I come to the business point of view. I entirely agree with my honourable friend from Kaira that with the position of our industries as it is, if we participate we shall be exposing only our poverty. Now, Sir, the Industries Department has worked under the reformed Government for two years and has proved a failure, in that it has confessed that with the financial position as it is any scheme of expansion is not likely to be planned. That is the confession from Government itself. That shows that in this province we have no scheme for industrial development and that Government is convinced that owing to financial stringency and other factors Government cannot do anything for the industrial development of this Presidency. If that is so, why do you want to go as far as London to exhibit? And what are you going to exhibit? Now, I have made out a table from the Census Report, and I find that there are sixteen headings of the industrial factories that are run in this Presidency, but I find, Sir, that the only important industry is the cotton mill industry. The Ahmedabad Millowners' Association and the Bombay Millowners' Association, who represent the mill industry of this Presidency, have given it as their opinion that it is not in their interest to exhibit their products in this exhibition. Then the only thing that remains is our timber. I do admit, Sir, that we have to exhibit this timber in order to create a market for it: but admitting that, should we not tell Government that before finding new markets for our timber in Europe and elsewhere they should see that there is a good market in their own departments for our timber? I give the instance of the Development Department.

The Honourable the PRESIDENT: I am afraid I must now interfere. The honourable member is perfectly within his rights in saying that there is no need for this Presidency to give an exhibition of its timber in foreign markets but when he branches off to the question of creating new markets in India I think it is opening a wide field for discussion beyond the limits of this debate.

Mr. G. B. TRIVEDI: My argument is that while we are asked to seek new markets for our timber outside, we are neglecting our own market in India. I mean to say, Sir, that Government have not done everything they can to use our own timber here for their own requirements, for the requirements of the railways, for the requirements of the Port Trust and for the requirements of the Development Department. Thus we are neglecting to find markets for our own timber inside the country and are importing timber for our own needs. In the circumstances it would be aggravating the situation if we took part in the exhibition, though I think we would get new markets for our timber if we did so.

The Honourable the PRESIDENT : The honourable member need not dilate on that and repeat.

Mr. G. B. TRIVEDI : Then, lastly, Sir, I come.....

The Honourable the PRESIDENT : I have given the honourable member an excess of five minutes. He has taken altogether twenty minutes.

Mr. LALJI NARANJI : May I move my amendment, Sir ?

The Honourable the PRESIDENT : I am afraid the amendment contains arguments and inferences and that is not allowed by the Standing Orders. The honourable member may use those arguments in his speech, if he is going to speak against the resolution.

Mr. LALJI NARANJI : Sir, nobody will be more pleased than myself as a merchant and as representing the industries and commerce of the presidency, to develop new markets for our goods in many parts of this world, if this resolution would be compatible with our dignity and self-respect as Indians. Government by pressing such a resolution puts honourable members in a difficult position. I would just mention the difficulty, Sir, and I had therefore given notice of my amendment. It was owing to that difficulty alone that I had given notice of the amendment. Otherwise, I would have opposed this resolution as it stands. With your permission, Sir, I will read the amendment of which I have given notice.

The Honourable the PRESIDENT : That amendment is not allowed for the reasons I have already given but the honourable member can make a speech on the lines of his abortive amendment.

Mr. LALJI NARANJI : In this resolution I only wanted to add certain words and thus to express the just indignation which is not only felt by all the Indian merchants and by the general public, but even expressed by the Government of India in their private communications with the Indian Merchants' Chamber and Bureau. I am only trying to put those grievances and to add in this resolution in a particular place certain words to show that though we might take part in this exhibition, and though the question of the development of industry is an arguable and debatable one, by such participation I will just try to give a reply to the arguments advanced by the honourable members who have made speeches in support of this resolution. But before I do that I would like to mention that I am supporting indirectly this resolution if in fact the just indignation that we all feel is allowed to be expressed in this resolution. Otherwise, it will be my painful duty, Sir, to oppose this resolution.

The Honourable Minister has said that there were two exhibitions held one in 1886, and the other in 1908 in which India participated ; but he has never shown us whether those exhibitions have done us any good and if so, in what manner. One of the honourable members here mentioned while the Honourable Minister was addressing the House that he was reading this speech—I do not blame him for that as the subject is such that his department may have prepared this speech for him and that is why he could not show how these exhibitions have helped us in any way during all these years. The attention of the Government has been drawn to this fact when the portfolio of Industry Department was given to an Indian Minister, but to no purpose. The Honourable Minister has never tried to show us in his speech the justification from the point of view of development of industries whether India has gained anything from the Royal Exhibition of 1886 or by our participation in the exhibition of 1900. He has not also proved that India has made any progress in its

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manufacturing capacity as such. He has then given another reason that as borrowers—we are big borrowers—we will enhance our credit and facilitate Government in getting loans because our requirements are many. I do not expect a reply from the Honourable Minister on this question at once, but I would like to be enlightened on the point whether by borrowing our country gains or loses. That is a big question and I do not think I shall take the time of this House in going into it now. But I hold that there must be a limit to everything. Government go on raising loans of every kind and they are thereby diminishing their own resources. If I were allowed to point out in brief what India has done for England and England is doing for India, then the House would see that the same policy is not pursued by England with respect to India as is pursued by her in respect of her industries. The Honourable Minister said that our participation in the Empire Exhibition would materially benefit an industrial province like Bombay. Now let us analyse the position how Bombay is industrially advancing. Is industry worth the name, namely, Mill Industry, in the province allowed to prosper? Now that is an allegation which cannot be refuted, that not only this province but India as a whole is not materially advancing in point of industry. We are thankful for the development of our country in some way, but whether India, with all that the British are doing for India in their opinion, has materially advanced, is doubtful. I will point out to the Honourable Minister that we have not only not developed our industries like those of Great Britain but that we find that they have tried to thwart the progress of our industries where British interests are concerned, and although India's interests, are as is well known to all of us, entrusted to Great Britain I do not think that India is being given justice by Great Britain so far as the Indian industries are concerned. I only refer to this point as Mr. Montagu himself tried to explain the situation over which the Liverpool people were not satisfied on the enhancement of import duties and no corresponding rise in excise duties on local cloth.

The Honourable Minister has referred to the Legislative Assembly and has said that they have voted this grant and we also being a part of the Empire should do the same. Certainly, I am doubtful whether a citizen of this Empire, so long as this Empire is going to treat us Indians unjustly in respect of our just complaints and so far as no redress is given to us, should participate in this Empire Exhibition. The Honourable Minister in proposing this resolution might have attempted to refer to this in the resolution. In fact I should have liked that this resolution should have come from the mouth of a merchant. Even I myself should have liked to move such a resolution and should have tried to refer to our just grievances in the same. The Honourable Minister told us that our participation in this exhibition would help us towards the completion of the largest schemes that we have undertaken like the Sukkur Barrage, the Bombay Development and other schemes of the Bombay Municipality and the Improvement Trust. There is no doubt that we might know something about some articles which we might require for the development of these bodies. But that is a very minor advantage. We are told that our participation might facilitate our getting loans and also might help us in the manufacture of our articles, but it is doubtful whether all these things are being done for the development of their own industries which are at present lying idle. The Honourable Minister or the Government in proposing this resolution have tried to create a sort of enthusiasm in this House and for that purpose they have mentioned two reasons, namely, that His Majesty the King Emperor is the

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patron of this exhibition and that His Royal Highness the Prince of Wales is the President of the Central Committee. I admit all this with great respect, and that is the only reason why I wanted to support this resolution as I proposed to amend it. If with the concurrence of Government I may be allowed to insert my amendment the resolution may be allowed to be passed with that amendment. In that case I am sure it will do justice to the claims and right complaints of Indians in all parts of the Empire for which this exhibition is meant. This exhibition is named the Empire Exhibition and I admit the words 'Empire Exhibition' have created a great stir and commotion in the commercial communities. I am sure the Honourable Minister must have read the speeches made somewhere which show how much the mercantile community is upset on the question of our participation in this exhibition. It is also well known to honourable members of this House.....

The Honourable the PRESIDENT: It is called "The British Empire Exhibition."

Mr. LALJI NARANJI: That is the reason, Sir, why I am convincing this House that if we have got any grievances as citizens of the Empire we must give vent to them in this resolution and show that although we want to remain part of the Empire—we know it is to our advantage—yet for this only reason we are not going to pocket the insults that are offered to Indian merchants in other parts of the Empire. I think it is necessary that we should make this position clear and show that when we have voted this amount we have voted it with some exception. We must also show that though this exhibition will not do any good to us from the industrial and economic point of view we have voted this amount simply on the ground that we want to remain part of the Empire and also on the ground that it is an Empire Exhibition without in fact caring what the results of the exhibition are. We have had the Reforms Scheme, from which this Council has come into existence. We are all seeing and watching what the results of this scheme are going to be. It does not matter if we have to contribute Rs. 1,80,000 towards the expenses of the exhibition; to a province like Bombay I do not think it is a very large amount, though, as the honourable member for Kaira district said, it may be a big sum in these days of retrenchment. But we are going to risk the amount; as a merchant, I am inclined to risk it; you cannot gain anything without risking something. If we risk the amount, the Honourable Minister may be in a position to show what results have been achieved. But I will never be a party to the resolution as it is proposed, that we should participate in the exhibition and contribute this sum, without expressing our sense of resentment at the treatment meted out to Indians in the Colonies. Of course, I have nothing to say if honourable members in an exuberance of loyalty support this resolution. My amendment only says that we must express our indignation and resentment and that this country does not like the treatment that is given to Indians in the Colonies, which form part of the Empire for whose benefit this exhibition is sought to be held. Whether my amendment is in order or not, it is for the Chair to decide.

Then, Sir, the Honourable Minister has mentioned arts, crafts, and several other things, but he has not given us any figures of export from India of such articles which are manufactured in India, whether it is a small industry or a big industry. When you look to the industries that are developed under the.....

The Honourable the PRESIDENT: I do not think the House has been informed of the words of the particular amendment which the honourable member wishes to move, and which I have ruled out because it is argumentative He says:

"Add in the third line, after '1924' the following:—

'only for creating further markets of her products of this Presidency but not as a component part of the Empire, wherein differential treatment has become possible by the attitude of Great Britian and which treatment is resented by this House.'"

That of course makes the whole thing argumentative.

Rao Bahadur R. R. KALE: We have not understood the bearing of the amendment.

The Honourable the PRESIDENT: The resolution would read thus, if the amendment is admitted:

"This Council recommends to Government that the Bombay Presidency do participate in the British Empire Exhibition to be held in London in 1924, only for creating further markets of her products of this Presidency, but not as a component part of the Empire wherein differential treatment has become possible by the attitude of Great Britian, and which treatment is resented by this House, etc."

The latter part as regards differential treatment and the attitude of Great Britain is argumentative and inferential and our Standing Order says that a resolution shall be definite, and shall not contain any arguments and inferences. But, in order to get rid of the objection, the amendment might be put in this way:

"This Council recommends to Government that with a view to create further markets of her products of this Presidency and also to secure the rights of equal British citizenship throughout the Empire for India, the Bombay Government do participate, etc."

Mr. LALJI NARANJI: That does not give the idea. If my amendment is ruled out of order, I have nothing to say.

The Honourable the PRESIDENT: I have already said that it is out of order. It is argumentative. The alteration which I suggested would make it in order by merely stating what the object is.

Rao Bahadur R. R. KALE: Cannot the honourable mover protest, and while protesting say that we do such and such a thing?

The Honourable the PRESIDENT: The Standing Order distinctly says that no argumentative portion shall be allowed in a resolution.

Mr. LALJI NARANJI: If the amendment is ruled out of order....

The Honourable the PRESIDENT: I have ruled it out of order.

Mr. LALJI NARANJI: But I may continue my arguments against the resolution?

The Honourable the PRESIDENT: Certainly, but only two more minutes are left because the honourable member has already exhausted his time limit.

Mr. LALJI NARANJI: The time at my disposal is short, and I do not want to weary the House with any more arguments, but I will only say that as my amendment has been ruled out of order, I will have to oppose this resolution, and I will place before the Council a few more arguments as a reply to the further arguments of the Honourable Minister. He says that industries like iron and steel, coal and oil, etc., will be developed by our joining this exhibition. I would like to bring to the notice of the Honourable Minister that in England for safeguarding the industries of that country there is the anti-dumping law in operation and the Safeguarding of Industries Act which helped those industries

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that made enormous strides during war time. In India these industries receive no help from Government, and now, after the War, I do not think that the Indian markets will ever be able to compete with the other markets. Government, though often requested to do something for these industries like steel and iron, has so far done nothing. I do not therefore know how this industry is going to be developed in India by her participation in the exhibition. As regards coal, India can produce coal, but on account of the increase in railway freight, it is not possible to transport it cheaply, and we have to import our supplies of coal which can successfully compete with local coal. Who is responsible for it? The Government policy and several other circumstances. As regards oil, I do not think I need say anything to the House about it, because I think the position is well known to the House.

With these words, I oppose this resolution.

Mr. R. D. BELL: Mr. President, there are some misapprehensions regarding the objects of this exhibition, which I should like to explain to the House very briefly. These misapprehensions have been admirably illustrated by the speeches of the two honourable members who have preceded me.

The subject of the grievances of Indians in the British Colonies is not one which ordinarily can be appropriately discussed in this House, but, so far as it is relevant, the point of view that I would ask honourable members to take as regards this exhibition is this: whether Indians in the Colonies are going to be better served by the Bombay Presidency sulking—if I may use the word—and not participating in this exhibition in which not only all other parts of the Empire are participating but in which India itself is participating, or whether those interests would be better served by India and this Presidency playing the part which they have played on other occasions. I do not think, Sir, that you can find a better parallel to my case than the world war. I would ask honourable members whether India would stand to-day in the position that it does in the world, if she had then said "Not a pie, not a man," instead of playing an honourable part. And not only from the practical point of view do I consider that participation in this exhibition would be of real service to this Presidency, but the spirit in which the honourable members opposite have suggested that participation should not be made in order to secure a *quasi* revenge is entirely opposed to the spirit in which this exhibition was conceived. The origin of this exhibition goes back to the year 1919, when a meeting was held in London for the purpose of devising some means of continuing what might be called the best of the war spirit in the times of peace. There was nothing more remarkable than the way in which not only all parts of the Empire, but all countries of the world, sank their differences during the war, because they had a common cause and because they believed that that cause was a good cause. After the war, these countries continued their efforts to preserve that spirit in other spheres. In the sphere of world politics, men with high ideals established a League of Nations, with the prospect at least of diminishing if not stopping wars in the future. In the world of industry, international conferences have been established in order that the rights of labour may be equalised in all countries and that the world-wide disputes between capital and labour may be amicably settled. India has claimed and obtained a position in the League of Nations. She has claimed and she has obtained a position as one of the eight important industrial nations of the world. It was in this spirit, Sir, that the British Empire Exhibition was conceived so that, amidst

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all our differences and our strife, there might be found common ideals and common grounds of action.

I need not perhaps dwell further on this subject than to refer briefly to the suggestion which one honourable member opposite made that, in this matter, quite apart from reasons which have been given by two other honourable members, India should remain shut up in a closed house. A great Indian, who has raised the question of the grievances of Indians in other countries from a level where it is often disputed on the basest racial grounds, said, in this city very recently, that it was time that India realised that it was not the only nation in the world, and he added that there was work to be done outside India as well as inside. Well, Sir, this is an opportunity which has been given to India and which India has accepted. The only question now is whether Bombay will assist India in participation. The objects are not, as the last honourable member who spoke seemed to indicate, purely industrial and I should have resisted any amendment to limit participation in this exhibition merely to securing larger markets. The material prosperity of this country is a matter which is the concern of everybody in this House. But this exhibition is particularly directed to bring all the parts of the Empire together, not only on a material basis or a commercial basis, but on an intellectual and even on a moral basis. There is no reason, Sir, why the position which this Presidency has but to-day achieved in passing the most important measure for compulsory education so far taken in India should not have adequate representation in that exhibition and there is also no reason, Sir, why that great moral movement, the co-operative movement, should not equally well be represented. I, therefore, put it to honourable members that the whole spirit in which the opposition has been framed is a wrong spirit and that it is not the spirit in which the exhibition has been taken up. India has already committed itself. The Legislative Assembly with unanimity and, I think it might be said, with enthusiasm has resolved to participate. Three provinces, the Punjab, the United Provinces and Madras, are already committed to taking up a share which is very nearly equal to one-half of the whole exhibition. Burma, Sir, is not participating in the British Empire Exhibition, because it was not satisfied that it could obtain sufficient representation within the total area allotted to India and it has arranged to have its own exhibit on a scale which it thinks worthy of the occasion. That, Sir, is the spirit in which this Presidency should assist the Government of India in obtaining a worthy representation of the country as a whole. For a province of this importance, with its large population, its considerable resources and two of the principal sea-ports on its seaboard, it seems to me that all that honourable members ought to ask of the Honourable Minister is that he should make certain that within the limited space for which it is proposed to ask and within the comparatively limited grant which he requires us to make, an adequate and worthy representation of the Bombay Presidency should be secured.

Rao Bahadur G. K. CHITALE (Ahmednagar District): It is necessary, Sir, after the speech of the honourable the nominated member for Bombay in which a pointed allusion was made that the Finance Committee members might have given their assent to it through misapprehension of real facts, that I should speak out what I think about this. In the Finance Committee I was one of those who at first tried to oppose it tooth and nail from the beginning. There were two points of view in the Finance Committee in which the

[Rao Bahadur G. K. Chitale]

matter was tried to be looked into with as fair a detail as possible, and we did our best to come to an understanding befitting the dignity of this House and of ourselves. I feel, Sir, that I am an Indian first—I claim to be an Indian first—and everything else afterwards, and if I have given my assent to this, it is from this point of view, that if you only value your co-partnership in a spirit of pounds, shillings and pence, then it is borrowing a spirit which is more akin to John Bull and it is not the generous spirit of Indians. You may have, I admit, many of those grievances which have been referred to, but, as has been put before this House by the last speaker, it is not in that spirit that we wish to take part in this exhibition. It is not the spirit with which Indians entered the war; not the spirit with which we entered this House, and it is not the spirit with which we should oppose this kind of resolution. After all, we are a component part of the whole of India and, when representative India, in its Legislative Assembly, without a single dissentient voice, has agreed to participate—that appealed to me when I first learnt it and that appeals to me still now—when India through its Legislative Assembly, with its elected majority, has agreed, as I said, without a single dissentient voice, to participate in the British Empire Exhibition, they pledged our word. We are the one component part along with the seven other provinces, which go to make up that Assembly and to my mind that is an argument which ought to be put first. Do you want now to go against the deliberate wishes unanimously uttered by the honourable members of the Legislative Assembly, which represents your country? The first point that we will gain by participation in this exhibition is good-will which has no exact arithmetical value. Unfortunately we have lost a large part of that good-will. Will you allow me to say with all the earnestness that I can command that we have lost a large part of that good-will on account of the childish demonstration that took place last year? (Hear, hear.) I have learnt on very good authority that public opinion in England has been almost wild in supposing that we committed a very great crime and that we were very indiscreet in not treating the visit of the Prince of Wales in the spirit in which it was offered. (Hear, hear.) I am speaking from the point of view of Britishers, which is not altogether unreasonable if they have taken it in that spirit. Shall we add to our statesmanship or rather to our want of statesmanship, another chapter by saying that we shall not participate in the Empire Exhibition? As I have stated the first point is one of participation, and everything else is a minor thing. As has been pointed out by many patriotic statesmen, Indian statesmen have tried their best, have done their best to put this country on as high a level as possible. Racial differences are not going to die by this factious spirit. While we are ourselves suffering from many such sins of racial discrimination in India itself, what wonder is there if a very long time indeed is needed for reaching the limit of the end of all racial discriminations. We have come victorious out of the war, that racial differences should be sunk at once is not possible until we open a new chapter altogether. I am a believer in ordered progress. I know there are many things to be regretted from many points of view. An attempt might be made to square up such differences in a spirit of co-operation; and it is from that point of view I say this House must resolve to participate in the exhibition. (Hear, hear.) I am sorry that this participation will go along with many regrets, but after the utterance that has been given to them, I think, Sir, the spirit will not be misunderstood. I for one without looking to the slightest benefit from the exhibition would enter it whole-heartedly from that

[Rao Bahadur G. K. Chitale]

spirit of co-operation. If, on the other hand, we enter it in a bargaining spirit so that the whole bargain should bring in large benefit, I would not welcome it.

It is with that spirit I did my best in the Finance Committee to cut down the original amount of Rs. 2,68,000 to Rs. 1,80,000. It must be stated in fairness to the Members of Government that they did their best to cut down in various ways, which commended itself very much to us in the Finance Committee. I think the House will do well in accepting the resolution.

The Honourable Dr. R. P. PARANJPYE: Sir, I do not wish to take up the time of the House by any further detailed remarks. Any good that might have been expected by giving utterance to our sentiment of resentment has already been realised by the speeches of the honourable members. By putting it on paper and showing it by our action in rejecting the resolution we will be still more childish, which is not suitable to the dignity of this House. One and all of us in this House, whether Indian or English, are at one with the country on the question of our grievances in the Colonies, but the only thing that remains is as to the methods to redress those grievances. Many remedies have been proposed in order to get these grievances redressed. Retaliatory measures, peaceful in nature, we can adopt with certain amount of success. We have grievances against the Colonies but we are going to participate in an exhibition to be held in London under the ægis of His Majesty the King Emperor and under the direction of His Royal Highness the Prince of Wales. Any insult to these personages is resented almost as personal by every citizen of the British Empire. Can we afford to create further ill-feeling against ourselves in this country? We have got our differences and grievances. Which is the best way of getting our grievances redressed? Our grievances are to be redressed by appealing to the goodsense of the citizens and voters of the United Kingdom, and also to the goodsense of the citizens and voters of the Colonies. The recent embassy sent by this country to the Colonies has also been recently attacked in the same manner. It is asked what is the real direct result if we spend money for this purpose. But these large questions are not solved in a day or in an hour. Continued pressure of a moral or material nature has got to be exercised and the results can only be obtained gradually and impalpably, so that you cannot see in a moment what the direct effects are likely to be. It is only by appealing to the goodsense of the people of the British Empire all over that we can get our grievances redressed. Even as regards the Kenya Colony in which our people have got very great interests, that colony is now under the direct control of the Colonial Office. Are we likely to get our grievances redressed if we alienate the Parliament and the Colonial Office by adopting an attitude of this impossible nature, or are we likely to get our grievances redressed if we say that in spite of our difficulties we are going to do our bit? Only by doing our bit in spite of our difficulties shall we be able to take a strong position and not by mere sulking. During the last few years some of our people have tried these sulking methods, and a great number of the people who have tried sulking have come to realise that sulking does not pay. I am putting it before you whether we are going to get a better result by a continuation of the policy of sulking or by a policy of co-operation and appeal to the goodsense of our brethren in the whole Empire. Nobody advocates here that we should sulk or that we should go out of the Empire. Having taken up that position once for all, we should loyally accept the obligations of partnership and do all the courtesies that are required in international and inter-imperial affairs.

Question put and declared carried by voices.

Mr. R. G. SALGAR (Sholapur City) speaking in Marathi, asked for a division.

House divided: Ayes, 39; Noes, 6. Motion carried.

*Division No. 10.*

**Ayes.**

| | |
|---|---|
| ADDYMAN, Mr. J. | LALBHAI AMBARAM, Mr. |
| BELL, Mr. R. D. | LAWRENCE, The Hon'ble Mr. H. S. |
| BHATE, Mr. G. C. | LOBY, Mr. F. B. P. |
| BOLE, Mr. S. K. | MEAD, Mr. P. J. |
| BULLOCKE, Mr. A. GREVILLE | MEHTA, The Hon'ble Mr. C. V. |
| CADELL, Mr. R. D. | MURPHY, Mr. S. J. |
| CHITALE, Rao Bahadur G. K. | MUTALIK, Sardar V. N. |
| DADACHANJI, Dr. K. E. | PARANJPYE, The Hon'ble Dr. R. P. |
| DALAL, Sardar Khan Bahadur ADARJI M. | PATEL, Mr. B. P. |
| DESHMUKH, Mr. ANANDRAO SHRIPATRAO | PAWAR, Shrimant J. A. |
| DWARKADAS, Mr. KANJI | PRADHAN, Mr. M. W. |
| GARUD, Rao Bahadur S. D. | PROES, Mr. E. M. |
| GODBOLE, Dewan Bahadur K. R. | RAHIMTOOLA, The Hon'ble Sir IBRAHIM |
| GULAMHUSEN, Mr. SULTANALI SALEMANJI | ROTHFELD, Mr. O. |
| HATCH, Mr. G. W. | SETALVAD, The Hon'ble Sir CHIMANLAL |
| HAYWARD, The Hon'ble Mr. M. H. W. | SHIRRAS, Mr. G. FINDLAY |
| HEPPER, Sir LAWLESS | SURVE, Mr. A. N. |
| JENNINGS, Major General W. E. | THOMAS, Mr. G. A. |
| KALBHOR, Mr. G. M. | WOODS, Mr. E. E. |
| KALE, Rao Bahadur R. R. | |

*Tellers for the Ayes:* Mr. F. B. P. LOBY and Mr. R. D. BELL.

**Noes.**

| | |
|---|---|
| DESAI, Rao Saheb DADUBHAI P. | LALJI NARANJI, Mr. |
| DUBHASHE, Mr. SHANKAR BALKRISHNA | SALGAR, Mr. R. G. |
| HAJI, Mr. IBRAHIM S. | TRIVEDI, Mr. G. B. |

*Tellers for the Noes:* Mr. G. B. TRIVEDI and Rao Saheb D. P. DESAI.

The Honourable the PRESIDENT: Order, order. I want to point out that the procedure which I shall follow here as regards a demand for a division will not be invariably that which I have adopted up to now for the initiatory stages of the Council's life. The Standing Orders direct that votes taken may be by voices or division and shall be taken by division if any member so desires. It would seem then that in the first instance, when the question is put, it is left to the President to take votes by either voices or division; and if he has made his choice and taken votes by collecting the voices, no division as of right can be claimed by any member. Division can be claimed as of right only before the President has made his choice. That is how it strikes me at this moment, but I cannot give a definite ruling now as the point has not actually arisen now. If and when it does arise hereafter, I shall consider whether the Standing Order is not reasonably open to the meaning I have now suggested and so prevents frivolous demands for division.

## MOTION TO AMEND STANDING ORDERS.

The Honourable Mr. H. S. LAWRENCE: Mr. President, I move that

'In Standing Order IV, 1 (2A), add to the proviso the words 'with the consent of the Member of Government in charge of the department concerned'."

[Mr. H. S. Lawrence]

I would ask you, Sir, to allow the Chief Secretary to explain the purport of this proposal.

Mr. P. J. MEAD: Mr. President, Standing Order IV, 1, (2 A) says:—

"The relative precedence of notices of resolutions shall be determined by ballot in accordance with the procedure set out in the schedule."

To this there is a proviso which states that on the request of the mover thereof the President may direct that any resolution may be moved on any day allotted to non-official business.

A reference was made to you, Sir, and you agreed that it placed you in a very invidious position. The suggestion is now that the ballot shall stand unless the Member in charge agrees that another resolution should be taken. The suggested change is in the interests of honourable members of this House. So long as the precedent is absolutely determined by ballot the Members of Government know what resolution is coming up and they are fully prepared with the information the House requires, and that information is in their hands. The Honourable the President suggested that the order should be altered as, if the next resolution is allowed to be taken up, it places the Members of Government in a somewhat difficult position if, as is probable, honourable members of this House want some information as regards that resolution. It has therefore been found necessary to insert the words "with the consent of the Member of Government in charge of the department concerned."

Mr. C. M. GANDHI (Surat City): Sir, I think I should oppose this amendment. On many previous occasions we have had, inspite of non-official members affording all facilities to Government members, several obstructions, when the consent of the Member of Government in charge of the department was required. I do understand, Sir, the difficulties that the honourable member, the Chief Secretary, has pointed out, but that could be got over by providing for some timely notice being given to them. But if a priority of a resolution could only be obtained with the consent of the Member of Government in charge, then perhaps no resolution may at all be brought up even though a large majority of the House may wish to the contrary. I therefore, Sir, have to oppose this amendment.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, may I be allowed to offer a word of explanation? This does not affect priority being asked for any resolution in regard to which you have laid down a very wholesome procedure in Poona. This amendment deals with an entirely different matter. The ballot determines the order of precedence for each honourable member and a resolution of his own selection is put on the agenda paper to be taken first according to his turn and discussed. It seems to me therefore that the Members of Government and Ministers would be prepared with all information which non-official members may require in the course of discussion on that particular resolution. If the ballot order is maintained then the proposed addition does not affect the case at all. But in case the honourable mover whose turn it is to move a resolution wishes to move another of his resolution instead of the first which he may have himself previously selected, then neither non-official members nor Government benches will have had any actual notice. If another resolution is allowed to be moved it might create new points which the House would probably not be prepared to deal with. This is not a question of priority for which the Honourable the President has laid down a certain procedure, but it deals with restricting the option of an

[Sir Ibrahim Rahimtoola]

honourable member whose turn it may be according to the ballot to move a resolution wanting to propose another. The restriction proposed by the amendment is that he can only do so if a Member of Government or Minister agrees. It is perfectly open to honourable members to make their own selection when the ballot is taken. Once that selection is made they should adhere to it or obtain the leave of the Member or Minister in charge if they desire to vary. This is the only point in the proposed amendment.

Mr. G. B. TRIVEDI (Thana District): Sir, I point out another difficulty of non-official members. It is this, that sometimes a resolution is sent up by more than one member and it may happen that a certain resolution on a certain subject is balloted and has been placed in the name of several honourable members. In that case suppose one resolution is debated upon and done with, then what will happen? The honourable member who has the same resolution standing first in his name may want his second resolution to be moved as the first one is debated upon, but the Government Member may object and say I cannot consent to the second resolution being moved. I, therefore, think that there must be some provision for such a contingency.

The Honourable Sir IBRAHIM RAHIMTOOLA: Sir, I recognise the force of the objections which the honourable member from Thana district has put forward. The object of the amendment is that both non-official members and the Government benches should receive intimation of any change in the order, appearing on the agenda paper. On the first day of the Council sessions when honourable members have in their possession the full list of the resolutions showing the order of precedence as a result of the ballot, they would know whether there is any other resolution of the same kind, to be moved by some other honourable member.....

Rao Bahadur R. R. KALE: As a point of order, this is a motion for the amendment of Standing Orders, and my submission is that the procedure laid down for that purpose should be observed. The amendment must go to the select committee.

The Honourable the PRESIDENT: Thank you for reminding me. I had forgotten and was under the erroneous impression that we are considering the matter as amended by a select committee. The Standing Order is—

"When the motion is reached, the President shall ask whether the Member has the leave of the Council. If objection is taken, the President shall request those members who support the motion to rise in their places and if more than 30 members rise accordingly, the President shall intimate that the Member has the leave of the Council."

I have already asked, and no one said 'No'.

Mr. G. B. TRIVEDI: I said 'No,' Sir.

The Honourable the PRESIDENT: It is no use sitting there and saying it; I must hear it. I will put it again. Are there any.....

Mr. G. B. TRIVEDI: Ayes.

The Honourable the PRESIDENT: Are there any honourable members who object?

Mr. G. B. TRIVEDI: I object.

The Honourable the PRESIDENT: Those honourable members who support the motion will rise in their places.

Only 27 members having risen to support it, the motion fell to the ground.

## SUPPLEMENTARY ESTIMATES.

**Supplementary grant of Rs. 24,000 for a new set of furniture for the Bombay Legislative Council.**

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I move that Rs. 24,000 be transferred from the head of General Administration to 41—Civil Works. The Council has sanctioned this provision. It is only a formal transfer from one head to another.

Question put and agreed to.

**Supplementary grant of Rs. 4,00,000, for non-recurring grant-in-aid to the Victoria Jubilee Technical Institute.**

The Honourable Mr. H. S. LAWRENCE : Sir, I request that the demand, of which a typed copy has been handed to honourable members, for the Victoria Jubilee Technical Institute may be taken up first. It is a matter of considerable urgency that has only lately come to the notice of Government.

The Honourable Dr. R. P. PARANJPYE : Sir, I move that a sum of Rs. 4,00,000.....

The Honourable the PRESIDENT : But the Honourable the Finance Member said something about this grant.

The Honourable Mr. H. S. LAWRENCE : I merely asked that priority should be given to the discussion of this particular item. The Honourable Minister will move it.

The Honourable the PRESIDENT : I give priority.

The Honourable Dr. R. P. PARANJPYE : Sir, I move that a sum of Rs. 4,00,000 be transferred from the reserve at the disposal of the Finance Department to the head Education. The object is to put the Victoria Jubilee Technical Institute on a sound footing. The details are given in the note circulated to honourable members, but seeing that they have not had time to go through them.....

Honourable MEMBERS : We have.

The Honourable Dr. R. P. PARANJPYE : I do not wish to say anything further on the matter, except that the Finance Committee has passed it.

Mr. S. K. BOLE (Bombay City, North) : Sir, I wish to ask for some information. There is a report that large amounts of the funds of the Victoria Jubilee Technical Institute have been misappropriated. Will the Honourable Minister.....

The Honourable the PRESIDENT : That question does not arise here ; it is not relevant to the demand. We are not dealing with defalcations, but we are dealing with reappropriations.

Question put and agreed to.

**Supplementary grant of Rs. 25,360, for minor repairs to jails.**

The Honourable Mr. M. H. W. HAYWARD : Sir, I move that a sum of Rs. 25,360 be transferred from 41—Civil Works in charge of Public Works Officers to 25—Jails and Convict Settlements.

Question put and agreed to.

**Supplementary grant of Rs. 1,20,000 for grants to local boards for village water supply.**

The Honourable Dr. R. P. PARANJPYE : Sir, I move for the transfer of Rs. 1,20,000 from 41—Civil Works to 33—Public Health.

Question put and agreed to.

**Supplementary grant of Rs. 15,000, for leave allowance to sub-registrars and inspectors of registration.**

The Honourable Mr. C. V. MEHTA : Sir, I move for the reappropriation of Rs. 15,000 from 47—Miscellaneous (Reserve at the disposal of the Finance Department) to 9—Registration.

Question put and agreed to.

**Supplementary grant of Rs. 3,800 for additional grant for the upkeep of the Aden police launch.**

The Honourable Mr. M. H. W. HAYWARD : Sir, I move for the reappropriation of the sum of Rs. 3,800 from 33—Public Health to 26—Police.

Question put and agreed to.

**Supplementary grant of Rs. 11,800 for additional grant for the Grant Medical College, Bombay, for the purchase of European stores.**

The Honourable Dr. R. P. PARANJPYE : I ask, Sir, for a transfer of Rs. 11,800 from 47—Miscellaneous to 32—Medical, for the purpose stated in the printed statement.

Question put and agreed to.

**Supplementary grant of Rs. 22,020 to supplement the grant of the Separate Department, on account of cost of despatch boxes, etc.**

The Honourable Mr. H. S. LAWRENCE : Mr. President, I propose to ask for a grant of Rs. 22,020 by a transfer from 47—Miscellaneous to 22—General Administration, for the reasons given in the printed statement.

Question put and agreed to.

**Supplementary grant of Rs. 33,650 for "Discretionary grants by Heads of Provinces, etc."**

The Honourable Mr. H. S. LAWRENCE : I move, Sir, for a grant of Rs. 33,650 ; Rs. 8,650 to be transferred from 5—Land Revenue and Rs. 25,000 to be transferred from 47—Miscellaneous to 22—General Administration. The reasons are given in the printed statement.

Question put and agreed to.

**Supplementary grant of Rs. 2,744 for grant to Mahableshwar station fund.**

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : Sir, I move for a grant of Rs. 2,744 by transfer from 41, Civil Works to 47, Miscellaneous.

Question put and agreed to.

**Supplementary grant of Rs. 10,000 for improving the bank of the Motikhar at Bhiwandi in Thana district.**

The Honourable Sir IBRAHIM RAHIMTOOLA : Sir, I beg to propose that a sum of Rs. 10,000 may be transferred from 41, Civil Works to 5, Land Revenue.

Question put and agreed to.

**Supplementary grant of Rs. 1,90,000 in connection with the construction of the Visapur tank project.**

The Honourable Sir CHIMANLAL SETALVAD : I move for a re-appropriation grant of Rs. 1,90,000 by a transfer from 41, Civil Works, to "15, Other Revenue Expenditure financed from Ordinary Revenues—A—Irrigation Works." The reasons are given in the printed statement.

Question put and agreed to.

**Supplementary grant of Rs. 6,805 for purchase of European stroes for printing department of the Commissioner in Sind.**

The Honourable Sir CHIMANLAL SETALVAD : I move for a re-appropriation grant of Rs. 6,805 by a transfer from 47, Miscellaneous, to 46, Stationery and Printing.

Question put and agreed to.

**Supplementary grant of Rs. 4,020 for subvention to the district local board, Sukkur, on account of cost of separate establishment, etc.**

The Honourable Khan Bahadur SHAIKH GHULAM HUSSAIN : I move for a grant of Rs. 4,020 by a transfer from head 41, Civil Works, to head 47, Miscellaneous.

Question put and agreed to.

Supplementary grant of Rs. 75,000 for fees in criminal cases.

The Honourable Sir CHIMANLAL SETALVAD: I move for a re-appropriation grant of Rs. 75,000 by transfer from the head, 47, Miscellaneous (from the reserve at the disposal of the Finance Department), to head 24, Administration of Justice.

Question put and agreed to.

Supplementary grant of Rs. 51,120 for revision of pay of the Subordinate Revenue Service in Sind.

The Honourable Sir IBRAHIM RAHIMTOOLA: I move for a grant of Rs. 51,120 by transfer from 47, Miscellaneous (from the reserve at the disposal of the Finance Department), to 5, Land Revenue.

Question put and agreed to.

Supplementary grant of Rs. 71,350 for grant to the Bombay municipality for construction of four European wards at the Arthur Road Hospital.

The Honourable Dr. R. P. PARANJPYE: I move for a grant of Rs. 71,350 for the purpose given in the printed statement.

Question put and agreed to.

Supplementary grant of Rs. 4,500 for advertisement charges in respect of High Court Criminal Sessions and catering charges for jurors.

The Honourable Mr. M. H. W. HAYWARD: I move for a reappropriation grant of Rs. 4,500 by a transfer from 47, Miscellaneous (from reserve at the disposal of the Finance Department), to 24, Administration of Justice.

Question put and agreed to.

Supplementary grant of Rs. 3,523 for grant to district local board, Larkana, for village sanitation.

The Honourable Dr. R. P. PARANJPYE: I move for a reappropriation grant of Rs. 3,523 by transfer from 47, Miscellaneous, to 33, Public Health, for the purpose mentioned in the printed statement.

Question put and agreed to.

Supplementary grant of Rs. 870 for entertainment of establishment in the Record Office, Bombay, for transcription of certain old volumes of historical value.

The Honourable Mr. H. S. LAWRENCE: I move for a grant of Rs. 870 by transfer from 47, Miscellaneous (from reserve at the disposal of Finance Department), to 22, General Administration, for the purpose mentioned in the printed statement.

Question put and agreed to.

Supplementary grant of Rs. 5,54,000 in connection with the loss by exchange on expenditure in England.

The Honourable Mr. H. S. LAWRENCE: I move for a supplementary grant of Rs. 5,54,000 in connection with the loss by exchange on expenditure in England, for the reasons given in the printed statement.

Question put and agreed to.

The Honourable Mr. H. S. LAWRENCE: That is all, Sir.

The Honourable the PRESIDENT: Has His Excellency given any orders as regards proroguing the session?

The Honourable Sir IBRAHIM RAHIMTOOLA: Yes, Sir. His orders are that the Council may be prorogued.

The Honourable the PRESIDENT: By command of His Excellency the Governor I now declare this third session of A. D. 1922 of the Legislative Council of His Excellency the Governor of Bombay prorogued until such day and time as shall be fixed by His Excellency for the next session to meet.

## APPENDIX A.

*Statement giving the total number of scholarships paid to the children of military pensioners in the Poona and Satara districts during the year 1921-1922.*

| Number of Scholars. | Name of Institution and District. | Scholarship paid during the year 1921-1922, out of |
|---|---|---|
| 5 | Satara High School, District Satara .. .. | Silver Wedding Fund. |
| 1 | Do. .. .. | Results grants. |
| 2 | Primary schools in the Satara District .. .. | Do. |
| 3 | Anglo-Urdu High School, Poona, District Poona .. | Silver Wedding Fund. |
| 2 | New English School, Poona, District Poona .. | Results grants. |
| 1 | Nutan Marathi Vidyalaya, Poona, District Poona .. | Do. |
| 1 | Navin Marathi Shala, Poona, District Poona .. | Do. |

## APPENDIX B.

*Broach, 2nd September 1922.*

To—The Executive Engineer in charge Boring Works.

*Subject*:—Water supply of Bahra Tract of Broach District.

Sir,

In accordance with instructions received from the Commissioner, N. D., I have the honour to address you with regard to the perennial difficulty of sweet water supply from which the Bahra tract of this district suffers.

2. The Bahra tract may be taken to be the part of Wagra and Jambusar Talukas (with a bit of Amod) which lies West of a line beginning from where the Bhukhi River joins Narbudda and running due North to Hetampur in Amod Taluka and Dolia in Jambusar Taluka then curving round through Panchkada to meet the sea-coast at Chhidra. In this tract a fair number of villages have a satisfactory water supply from wells even in years of drought, *e.g.*, Aladar and Atali in Wagra, and Tankari and Chhidra in Jambusar, but some have only sweet water as long as their tanks hold out, and then have to use brackish well-water even in normal years and many are without sweet water at all in years of drought and have to be supplied with drinking water by an organised cart service.

It should be noted that the conditions in some villages seem judging from the confusion in the records on the subject to change somewhat from year to year, sometimes the well-water is potable, sometimes it is not. However it emerges from a scrutiny of two years' reports (one, 1921, a year of drought) that the following villages are in difficulties every hot weather, and either have to drink brackish water or bring sweet water from other villages :—

*Wagra Taluka.*

| | Pop. | | Pop. | | Pop. |
|---|---|---|---|---|---|
| 1. Gandhar .. | 577 | 6. Padaria .. | 162 | 11. Vagni .. | 269 |
| 2. Muler .. | 291 | 7. Lakhigam .. | 877 | 12. Paldi .. | 375 |
| 3. Padalpur .. | 88 | 8. Chanchwel .. | 761 | 13. Kadodra .. | 643 |
| 4. Paniadra .. | 570 | 9. Badalpara .. | 219 | 14. Khojbal .. | 465 |
| 5. Harinagar .. | 162 | 10. Koliad .. | 183 | 15. Suwa .. | 569 |

*Amod Taluka.*

| | Pop. | | Pop. | | Pop. |
|---|---|---|---|---|---|
| Hetampur .. | 59 | | | | |

*Jambusar Taluka.*

| | | | | | |
|---|---|---|---|---|---|
| 1. Asarsa .. | 215 | 3. Dolia .. | 243 | 5. Chandpur Bara. | 89 |
| 2. Kapuria .. | 269 | 4. Sardarpura. | 120 | 6. Asanwad .. | 220 |

The population affected every year by these conditions is then as follows :—

Wagra Taluka 6,204, Amod Taluka negligible, Jambusar Taluka, 1,156.

As regards Jambusar Taluka, there are 4 more villages with a total population of 2,260 (*viz.*, Devla 1,405, Kansagar 130, Madafar 475, and Islampur 250) about which reports are so contradictory from time to time that I must presume that their case is not very bad.

It appears therefore that Wagra Taluka is the worst off, and it must be remembered that in addition to these villages there are several others which suffer and have to be assisted in years of drought.

The problem is therefore seen to be a big one, because the population affected is a large one and scattered. It is also a difficult one because the conditions are curious. The wells are nowhere specially deep and yet scattered about in this area of brackish water there are some excellent wells which never fail to supply sweet water, *e. g.*, a famous big well between Kapuria and Islampur of Jambusar Taluka and good wells at Nada, Tankari, etc., of Jambusar and Atali and Aladar and Akhod of Wagra Taluka. It is possible that borings of 300 feet or more might produce good water all the year round, but curiously enough it seems to have been tried only at one place, *viz.*, at Akhod in Wagra where it has produced a good water supply. This boring must have been done a long time ago by private agency, as no record or certain information about it can be found.

Experience seems to be that in this tract a new well often goes on giving sweet water for some years and then becomes permanently salt.

Proximity to the sea seems to have little to do with the matter, since the wells at Aladar and Nada are good and outside this Bahra area Hansot is famous for its good water, and I learn from some old records of mine that there are or were good wells on the Surat coast, *e. g.*, right at the mouth of the Tapti.

The population of Wagra Taluka shows a slight decrease by the census of 1921, and it is possible that the water supply difficulty may be connected with this (the population figures given above are for 1911, as 1921 was a year of drought and not representative of normal conditions). In any case it is indisputable that this water supply problem requires tackling and that the area is one of the most desirable to try the effect of a deep boring.

The only objections that occur to me against the utility of deep boring in this locality are that, even if it is successful in one village, it will only benefit a comparatively small population and the cost of deep boring in *many* villages would be great.

I am inclined to think that if a deep boring did not produce artesian, *i.e.*, surface water, but brought it to within say 50 feet of the surface the villagers would be quite ready to do the necessary pumping.

On the whole then I would recommend the selection of this area for an experimental deep boring and I think it might be tried at Chanchwel in

Wagra Taluka as having the largest population and being adjacent to several villages which are similarly affected.

In 1921, the cost to Government of supplying water by carts was Rs. 2,417 in Wagra and Rs. 4,156 in Jambusar. Considerable expenditure on other items of 'water-supply' was also incurred by Government and other bodies.

I have, etc.,
(Signed) H. L. FOX,
Collector of Broach.

No. L. F., Broach, 3rd September 1922.

Copy forwarded with compliments to the Commissioner, N. D.

(Signed) H. L. FOX,
Collector of Broach.

## APPENDIX C.

*List of villages in the Ratnagiri and Kolaba districts which demand new Urdu schools.*

Names of villages by Talukas.

RATNAGIRI DISTRICT.

*Taluka Chiplun.*
Pangari (turf Velumb.)
Pewen.

*Taluka Dapoli.*
Aden.
Faranen.
Navase.

*Taluka Deogad.*
Tirlax Navanagar.

*Taluka Khed.*
Dhamandevi.
Tisen.
Shirshi.
Furus.
Panhaljen.

*Taluka Rajapur.*
Sangwe.
Valyen.
Saundal.

*Taluka Ratnagiri.*
Golap.
Someshvar.
Purnagad.

*Taluka Sangmeshwar.*
Ghativalen.
Makhjan.

KOLABA DISTRICT.

*Taluka Karjat.*
Potal-pali.

*Taluka Mahad.*
Jui.
Nate.

*Taluka Mangaon.*
Utekhol.

# APPENDIX D.

*Statement showing the pay and allowances drawn previous to their appointment under the Development Department by Officers now drawing Rs 500 per mensem and above.*

| DESIGNATION. | NAME OF THE INCUMBENT. | Pay and allowances drawn before their appointment in the Development Department by men drawing now Rs. 500 and above, and the pay drawn at present under the Development Department. |
|---|---|---|
| Director of Development .. | Sir Lawless Hepper, Kt. (on leave). | Formerly Agent, G. I. P. Railway (Rs. 4,000 with provident fund). Present pay Rs. 6,000. |
| Acting Director of Development .. | Mr. P. W. Monie, C.S.I., I.C.S. | Formerly Municipal Commissioner for the City of Bombay on Rs. 3,000; substantive pay Rs. 3,000; present pay Rs. 4,000. |
| Acting Secretary to Government and Deputy Director of Development. | Mr. J. R. Martin, I.C.S. .. | Mr. Martin as Collector of Surat was drawing his grade pay and allowances. Present pay Rs. 3,000. |
| Deputy Secretary to Government, Development Department, and Secretary to the Development Directorate and Assistant to the Commissioner, Bombay Suburban Division. | Mr. H. St. C. Smith .. | Formerly Assistant to the Commissioner, Northern Division. He drew his grade pay and allowances in the Provincial Civil Service. Present pay Rs. 1,300. |
| Assistant Secretary to Government, Development Department. | Mr. R. B. Vachha, M. A. | Rs. 400 as Superintendent, Indian Munitions Board, Calcutta. His substantive appointment is that of Junior Assistant Secretary in the Revenue Department. Present pay Rs. 650 in the grade of 650—50—850—950. |
| RECLAMATION BRANCH. | | |
| Chief Engineer, Reclamation .. | Mr. Ll. W. Lewis (on leave). | Permanent Chief Engineer, Public Works Department, Burma, on Rs. 3,165. Present pay Rs. 3,600 in the grade of Rs. 3,500—100—4,000. |
| Acting Chief Engineer .. .. | Mr. G. M. O'Rorke, C.I.E., M. B. E. | Rs. 1,850. (Formerly Port Engineer, Basrah). Present pay Rs. 2,750. Substantive pay Rs. 2,000. |
| Acting Deputy Chief Engineer, Kandivli Quarry. | Mr. C. G. Croudace .. | Rs. 750 *plus* Rs. 295 acting allowance. (Divisional Works Officer, Military Service). Present pay Rs. 1,750. Substantive pay Rs. 800. |
| Junior Deputy Chief Engineer, Marine Lines. | Mr. H. A. Elgee .. | Private practice. Present pay Rs. 2,000 in the grade of 1,750—100—1,950—50—2,000. |
| Junior Deputy Chief Engineer, Colaba. | Mr. P. Billinton .. | Rs. 1,400 with allowances. Present pay Rs. 1,850 in the grade of Rs. 1,750—100—1,950—50—2,000. |
| Executive Engineer, Projects .. | Mr. W. H. Thomas, A.C.G.I., A.M.I.C.E. | Rs. 600 *plus* Rs. 450 maintenance allowance. Present pay Rs. 1,200—100—1,400—50—1,600. |
| Quarry Master .. .. | Mr. E. O. Roberts .. | £ 28. As foreman at Brookes Halifax Slawork Redboum Hills, Lincolnshorq. Present pay Rs. 840. |
| Mechanical Engineer, Quarry .. | Mr. A. Bellefontaine .. | No fixed pay; Rs. 750 (Present pay). |
| Assistant Engineer, Marine Lines .. | Mr. S. M. Abdulla .. | Rs. 350 *plus* a night allowance of Rs. 5 per diem. Present pay Rs. 500 in the grade of 400—50—1,000. |
| PROJECT DIVISIONS. | | |
| Superintending Engineer, No. 1 Project Division. | Mr. T. Harvey .. | Rs. 1,175 pay *plus* Rs. 150 Deputation allowance *plus* Rs. 100 Acting allowance *plus* Rs. 250 motor allowance. Acting as Health Officer, Imperial Delhi. 2,000 (Present pay). |
| Executive Engineer, Bombay Housing District No. 1. | Mr. N. L. Mehta .. | Rs. 1,100 (Superintending Engineer, Bikaner State, with free quarters). Present pay Rs. 1,800 in the grade of Rs. 1,200—100—1,400—50—1,600. |

## APPENDIX D—*contd.*

| DESIGNATION. | NAME OF THE INCUMBENT. | Pay and allowances drawn before their appointment in the Development Department by men drawing now Rs. 500 and above and the pay drawn at present under the Development Department. |
|---|---|---|
| PROJECT DIVISIONS—contd. | | |
| Executive Engineer, Bombay Housing District No. II. | Mr. A. Hamid .. | Rs. 570 (As permanent Executive Engineer in the service of His Highness the Nizam of Hyderabad). Present pay Rs. 1,200 in the grade of 1,200—100—1,400—50—1,600. |
| Assistant Engineer, Bombay Housing District No. II. | Mr. M. H. Gazdar .. | Rs. 360 (Assistant Engineer in the service of His Highness the Nizam of Hyderabad). Rs. 600 in the grade of 400—50—900 (Present pay). |
| Assistant Engineer .. .. | Capt. C. Carmichael .. | Rs. 950 as Officer Commanding Defence, Light Section, and Garrison Engineer, Fort William. Rs. 750 (Present pay). |
| Assistant Engineer .. .. | Mr. M. A. Dhoria .. .. | Private practice. Rs. 600 in the grade of 450—50—900 (Present pay). |
| Superintending Engineer, No. 2 Project Division. | Mr. D. R. H. Browne .. | Rs. 1,475 including pay and allowances. Executive Engineer in the Bombay Public Works Department. Present pay Rs. 2,000. |
| Executive Engineer, Sanitary District .. | Mr. T. S. Soorma .. | Rs. 1,200 *plus* Rs. 150 conveyance allowance. As Public Works Department Executive Engineer. Present pay Rs. 1,300 in the grade of 1,200—100—1,400—50—1,600. |
| Executive Engineer, Kurla Trombay District. | Mr. G. W. T. Squires .. | Rs. 1,085 (Senior Executive Engineer, Indian Munitions Board, with free use of Government Motor (Car). Present pay Rs. 1,300 in the grade of 1,200—100—1,400—50—1,600. |
| Executive Engineer, Andheri .. | Mr. D. K. Bhave .. | Rs. 950 as Municipal Engineer, Cawnpore. Present pay Rs. 1,200 in the grade of 1,200—100—1,400—50—1,600. |
| Superintending Engineer, No. 3 Project Division. | Capt. A. F. Macdonald Clark. | Rs. 1,860 (in the service of the B. B. and C. I. Railway, Superintending Engineer, Construction). Present pay Rs. 2,000. |
| Executive Engineer (Mechanical), 3rd Project Division. | Mr. A. Lennox Staton .. | Rs. 1,260. Present pay Rs. 1,300 in the grade of Rs. 1,200—100—1,400—50—1,600. |
| Executive Engineer, Central Salsette Railway. | Mr. T. A. Pereira .. | Rs. 665. Rs. 1,200 in the grade of 1,200—100—1,400—50—1,600 (Present pay). |
| Executive Engineer in charge Ambarnath Development. | Mr. H. K. Vachha .. | Rs. 215 *plus* 10 per cent. Bombay allowance (B. B. and C. I. Railway, Construction Department). Rs. 500 pay as Assistant Engineer *plus* Rs. 200 charge allowance (Present pay). |
| Executive Engineer, Ambarnath Projects. | Mr. J. N. Setna .. | Rs. 430. Assistant Engineer in the B. B. and C. I. Railway, with benefits of Provident Fund. Rs. 900 (Present pay). |
| Superintending Engineer, No. 4 Project Division. | Mr. E. F. Sykes .. | Rs. 1,900 *plus* Rs. 120 local allowance (Working in the Irrigation Directorate, Mesopotamia). Rs. 2,000 (Present pay). |
| Executive Engineer, Mechanical District. | Mr. W. K. Caldwell .. | Rs. 1,200 (As Works Manager and Deputy General Manager with Messrs. Omar, Founding and Engineering Company, Byculla) Rs. 1,300 in the grade of 1,200—100—1,400—50—1,600 (Present pay). |
| Executive Engineer, Materials District. | Mr. J. B. Colabawalla .. | Rs. 650 (Working in the Gwalior State) Rs. 1,200 in the grade of 1,200—100—1,400—50—1,600 (Present pay). |
| Assistant Engineer .. .. | Mr. K. L. Mahindra .. | Rs. 315 per mensem *plus* Rs. 50 conveyance allowance. Rs. 650 in the grade of Rs. 450—50—900 (Present pay). |
| Land Acquisition Officer for the City of Bombay. | Mr. G. C. Rowe . | Rs. 1,300 including pay and allowances. Rs. 1,500 (Present pay). |

## APPENDIX D—*concld.*

| DESIGNATION. | NAME OF THE INCUMBENT. | Pay and allowances drawn before their appointment in the Development Department by men drawing now Rs. 500 and above and the pay drawn at present under the Development Department. |
|---|---|---|
| PROJECT DIVISIONS—concld. | | |
| Assistant Land Acquisition Officer for the City of Bombay. | Mr. H. V. Date .. | Rs. 600 *plus* Rs. 100 conveyance allowance. Rs. 600 (Present pay). |
| Personal Assistant to the Land Acquisition Officer for the City of Bombay. | Mr. S. D. Nariman .. | Rs. 350. Rs. 500 (Present pay). |
| Land Manager, Development Directorate. | Capt. E. M. Gilbert-Lodge | Rs. 1,200 *plus* Rs. 100 conveyance allowance (Assistant Land Acquisition Officer for the City of Bombay). 2,000—250—2,500 (Present pay). |
| Assistant Land Manager .. .. | Mr. K. R. Doctor .. | Rs 450 (Assistant Land Manager in the Improvement Trust). Rs. 640 in the grade of 600—40—800 (Present pay). |
| Special Assistant Land Manager .. | Mr. D. G. Sowani .. | Private practice. Rs. 500 in the grade of 800—50—900 (Present pay). |
| Superintendent, Bombay Suburban Survey. | Mr. W. J. Newland .. | Rs. 1,150 *plus* Rs. 150 (Formerly Superintendent, Bombay City Survey). Rs. 1,500 (Present pay). |
| Assistant Superintendent, Bombay Suburban Survey. | Mr. S. G. Narvane .. | Rs. 700. Rs. 750 in the grade of 700—50—750 (Present pay). |
| Assistant Development Officer, Kurla .. | Mr. D. M. Randive .. | Rs. 425 *plus* Rs. 125 (as Acting sixth grade Deputy Collector). Rs. 600 (Present pay). |
| Assistant Development Officer, Ambarnath. | Mr. P. H. Diwan .. | Rs. 300 *plus* Rs. 125 (as acting sixth grade Deputy Collector). Rs. 600 (Present pay). |
| Assistant Development Officer, Trombay. | Mr. A. K. Nulkar .. | Rs. 600 (Working in Rs. 600 grade of District Deputy Collector before retirement). Rs. 700 (Present pay). |
| Additional Assistant Development Officer, Trombay. | Mr. J. D. Nanavati .. | Rs. 600 (As Assistant Land Acquisition Officer for the City of Bombay). Rs. 625 (Present pay). |

## APPENDIX E.

*Statement showing the number and designations of appointments over Rs. 200 per mensem which have been abolished as a result of the total retrenchment of Rs. 60 lakhs.*

| Name of the Administrative Department. | Number of appointments abolished. | Designation of appointments abolished. | Remarks. |
|---|---|---|---|
| Home Department .. | 12 | Probationary Second Class Subordinate Judges. | |
| | 2 | City Magistrates. | |
| | 4 | Resident Magistrates. | |
| | 1 | Additional Small Cause Court Judge, Bombay. | Abolished from 17th August 1922. |
| | 2 | Inspectors of Police .. | From the grade of Rs. 180—15/2—255. |
| | 21 | | |
| Educational Department | 1 | Medical Inspector of Schools, Central Division. | |
| | 1 | Medical Inspector of Schools, Bombay Division. | |
| | 1 | Medical Inspector of Schools, Bombay City. | |
| | 1 | Medical Inspector of Schools, Northern Division. | |
| | 1 | Medical Inspector of Schools, Southern Division. | |
| | 1 | Medical Inspector of Schools, Sind. | |
| | 1 | Inspector of Training Schools, Bombay Presidency. | |
| | 1 | Head Master, Poona High School. | |
| | 1 | First Assistant, Poona High School. | |
| | 9 | | |
| Revenue Department .. | 5 | Personal Assistants to the Collectors of Sukkur, Panch Mahals, Nasik, Surat and Dharwar. | This results in the abolition of 10 posts of Deputy Collectors by the reversion of the most junior officers on Rs. 300 per mensem. |
| | 5 | District Deputy Collectors, one in each of the Districts of Satara, Nasik, East Khandesh, Ahmednagar and Ratnagiri. | |
| | 1 | Mamlatdar, reduced by the conversion of a Taluka into a Mahal. | |
| | 1 | Deputy Commissioner of Excise. | |
| | 1 | Distillery Supervisor. | |
| | 1 | Assistant Registrar of Co-operative Societies. | |
| | 1 | Divisional Inspector of Agriculture. | |
| | 1 | Superintendent of Fisheries. | |
| | 16 | | |

APPENDIX E—*contd.*

| Name of the Administrative Department. | Number of appointments abolished. | Designation of appointments abolished. | Remarks. |
|---|---|---|---|
| Public Works Department. | 5 | Temporary Engineers on Rs. 600, 550, 510, 350 and 300 per mensem. | So far as establishment provisions are concerned, the Public Works Department has already borne its full share of the general scheme of retrenchment of Rs. 60 lakhs by reducing the preliminary demand for establishment under "Provincial Civil Works" by Rs. 1 lakh, and issuing the final budget for the reduced amount. The reductions referred to in column 3 of this statement, with the exception of the last entry, are further savings. It is also observed that one post of Assistant Architect on Rs. 1,325 is to be abolished, but as the present incumbent is to be given six months' notice he will have served for the whole of the current year. This reduction is not therefore shown in column 3 of the statement. |
| | 1 | Assistant Secretary to Government, Public Works Department, Secretariat, on Rs. 650—50—850 per mensem. This appointment will be abolished from 24th November 1922. | |
| | 1 | Temporary Upper Subordinate on Rs. 230 per mensem. | |
| | 1 | Chief Clerk in the office of the Electrical Engineer to Government (temporary post) on Rs. 250 per mensem. | |
| | 8 | | |

## APPENDIX F.

*Statement showing the number of scholars studying in the Grant Medical College, Bombay, and the Medical Schools, Poona, Ahmedabad and Hyderabad (Sind), according to their respective castes and sex.*

| Male Students. | | Female Students. | |
|---|---|---|---|
| Community. | Total. | Community. | Total. |
| *Grant Medical College, Bombay.* | | | |
| Mahrattas .. .. | 5 | Native Christians .. .. | 4 |
| Mahomedans .. .. | 2 | Anglo-Indians .. .. | 2 |
| Hindus .. .. | 3 | Jewess .. .. | 1 |
| Anglo-Indian .. .. | 1 | Hindus .. .. | 2 |
| Total .. | 11 | Total .. | 9 |
| *B. J. Medical School, Poona.* | | | |
| Brahmins .. .. | 45 | Brahmins .. .. | 5 |
| Kayastha Prabhus .. .. | 2 | Kayastha Prabhu .. .. | 1 |
| Marathas .. .. | 5 | Native Christians .. .. | 7 |
| Lingayats .. .. | 1 | | |
| Total .. | 53 | Total .. | 13 |
| *B. J. Medical School, Ahmedabad.* | | | |
| Brahmins .. .. | 26 | Brahmin .. .. | 1 |
| Kshatria .. .. | 4 | Kshatria .. .. | 1 |
| Bania .. .. | 6 | Jewess .. .. | 1 |
| Patel .. .. | 2 | Native Christian .. .. | 1 |
| Mahomedan .. .. | 1 | | |
| Depressed class .. .. | 1 | | |
| Jain .. .. | 1 | | |
| Total .. | 41 | Total .. | 4 |
| *Medical School, Hyderabad, Sind* | | | |
| Hindus .. .. | 24 | | |
| Mahomedans .. .. | 7 | *Nil.* | |
| Gujratis .. .. | 2 | | |
| Total .. | 33 | | |

## APPENDIX G.

*Statement showing the total number of girls (classified by castes) holding Government stipends in training institutions in the Bombay Presidency.*

| Institution. | Brahmins. | Jains. | Lingayats. | Jews. | Christians. | Parsis. | Marathas. | Other Hindus. | Others. | Mahomedans. | Depressed classes. | Total. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *Bombay Division.* | | | | | | | | | | | | |
| *Nil.* | | | | | | | | | | | | |
| *Central Division.* | | | | | | | | | | | | |
| Training College for Women, Poona .. | 35 | 1 | .. | 1 | 1* | .. | 7 | 20 | 2 | .. | 1 | 68 |
| District Training School, Jalgaon .. | 1 | .. | .. | .. | .. | .. | .. | .. | .. | .. | .. | 1 |
| Poona Seva Sadan Training College .. | .. | .. | .. | .. | .. | .. | .. | .. | .. | .. | 1 | 1 |
| *Northern Division.* | | | | | | | | | | | | |
| Mahalaxmi Training College for Women, Ahmedabad .. | 37 | .. | .. | .. | .. | .. | 1 | 22 | .. | 8 | .. | 68 |
| District Training School, Nadiad .. | 2 | .. | .. | .. | .. | .. | .. | 1 | .. | .. | .. | 3 |
| District Training School, Broach .. | 1 | .. | .. | .. | .. | 1 | 1 | 1 | .. | .. | .. | 4 |
| District Training School, Surat .. | 2 | .. | .. | .. | .. | .. | .. | 1 | .. | .. | .. | 3 |
| *Southern Division.* | | | | | | | | | | | | |
| Training College for Women, Dharwar .. | 10 | 1 | 19 | .. | 33* | .. | 8† | 21 | .. | 1 | .. | 93 |
| *Sind.* | | | | | | | | | | | | |
| Training College for Women, Hyderabad (Sind). | .. | .. | .. | .. | 2 | .. | .. | 5 | .. | 2 | .. | 9 |
| Total .. | 88 | 2 | 19 | 1 | 36 | 1 | 17 | 71 | 2 | 11 | 2 | 250 |

* Indian Christians.

† Includes one Kokan Maratha.

## APPENDIX

*Number of students belonging to the advanced communities and those Training Colleges and Training Schools*

| Name of the Institution. | 1919-1920 | | | | | |
|---|---|---|---|---|---|---|
| | Advanced Communities. | | | Backward Communities. | | |
| | Brahmins. | Others. | Total. | Marathas. | Others. | Total. |
| *Central Division.* | | | | | | |
| Training College for Men, Poona .. | 55 | 13 | 68 | 9 | 23 | 32 |
| Training College for Men, Dhulia .. | 46 | 6 | 52 | 8 | 21 | 29 |
| Training School, Satara .. | 31 | 5 | 36 | 11 | 3 | 14 |
| Training School, Sholapur .. | 29 | 4 | 33 | 13 | 4 | 17 |
| Training School, Ahmednagar .. | .. | .. | .. | .. | .. | .. |
| Training School, Jalgaon .. | .. | .. | .. | .. | .. | .. |
| Training College for Women, Poona .. | 11 | 9 | 20 | 3 | 2 | 5 |
| Total .. | 172 | 37 | 209 | 44 | 53 | 97 |
| *Southern Division.* | | | | | | |
| Training College for Men, Dharwar .. | 51 | 56 | 107 | 3 | 17 | 20 |
| Training College for Women, Dharwar .. | 5 | 24 | 29 | 1 | 8 | 9 |
| Training School, Belgaum .. | .. | .. | .. | .. | .. | .. |
| Training School, Bijapur .. | 23 | 17 | 40 | 1 | 8 | 9 |
| Training School, Karwar .. | .. | .. | .. | .. | .. | .. |
| Total .. | 79 | 97 | 176 | 5 | 33 | 38 |
| Grand Total .. | 251 | 134 | 385 | 49 | 86 | 135 |

H.

*from the backward communities including the Marathas admitted into the in Central Division and Southern Division.*

| 1920-1921 | | | | | | 1921-1922 | | | | | | Remarks. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Advanced Communities. | | | Backward Communities. | | | Advanced Communities. | | | Backward Communities. | | | |
| Brahmins. | Others | Total. | Marathas. | Others. | Total. | Brahmins. | Others. | Total. | Marathas. | Others. | Total. | |
| 42 | 5 | 47 | 9 | 37 | 46 | 33 | 2 | 35 | 17 | 35 | 52 | |
| 28 | 4 | 32 | 7 | 35 | 42 | 31 | 7 | 38 | 4 | 38 | 42 | |
| 23 | 2 | 25 | 21 | 4 | 25 | 24 | 5 | 29 | 18 | 4 | 22 | |
| 26 | 6 | 32 | 11 | 5 | 16 | 26 | 9 | 35 | 11 | 4 | 15 | |
| 25 | 2 | 27 | 15 | 10 | 25 | 25 | .. | 25 | 15 | 9 | 24 | |
| 5 | 5 | 10 | 2 | 38 | 40 | 11 | .. | 11 | 35 | 4 | 39 | |
| 12 | 14 | 26 | 3 | 7 | 10 | 11 | 15 | 25 | 6 | 3 | 9 | |
| 161 | 38 | 199 | 68 | 136 | 204 | 161 | 38 | 199 | 106 | 97 | 203 | |
| 52 | 79 | 131 | 3 | 20 | 23 | 42 | 80 | 122 | 2 | 19 | 21 | |
| 2 | 20 | 22 | .. | 12 | 12 | 1 | 29 | 30 | 3 | 9 | 12 | |
| .. | .. | .. | .. | .. | .. | 9 | 29 | 38 | 5 | 8 | 13 | |
| 27 | 17 | 44 | 1 | 6 | 7 | 27 | 20 | 47 | 1 | 4 | 5 | |
| 11 | 3 | 14 | 15 | 21 | 36 | 15 | 17 | 32 | 4 | 16 | 20 | |
| 92 | 119 | 211 | 19 | 59 | 78 | 94 | 175 | 269 | 15 | 56 | 71 | |
| 253 | 157 | 410 | 87 | 195 | 282 | 255 | 213 | 468 | 121 | 153 | 274 | |

## APPENDIX I.

*Statement regarding commutation of kulkarni watans.*

| Name of District. | No. of villages in which the kulkarni watan service is commuted and kulkarnis are now replaced by stipendiary talatis. | No. of villages the kulkarnis of which are still officiating. |
|---|---|---|
| *Central Division.* | | |
| Ahmednagar .. .. .. | 1,325 | 17 |
| East Khandesh .. .. .. | 1,661 | 24 |
| West Khandesh .. .. .. | 532 | *Nil.* |
| Nasik .. .. .. | 1,459 | 185 |
| Poona .. .. .. | 1,158 | 38 |
| Satara .. .. .. | 1,101 | 202 |
| Sholapur .. .. .. | 160* | 559 |
| *Southern Division.*† | | |
| Belgaum .. .. .. | 172 | 916 |
| Bijapur .. .. .. | Nil | 1,143 |
| Dharwar .. .. .. | 95 | 1,125 |
| Kolaba .. .. .. | 6 | 23 |
| Ratnagiri .. .. .. | 6 | 3 |

* Out of these 160 villages, 26 are in charge of stipendiary village accountants as they are isolated villages in which sazas are not complete.

† In the Kanara District there are no kulkarni watans.

## APPENDIX J.

*Statement referred to in the answer to the Council question put by Rao Bahadur R. R. Kale.*

| Year. | Name. | For what study. | Occupation after return. |
|---|---|---|---|
| 1912-13 .. | Mr. D. N. Nagarkatti. | Paper making .. | Served for some time as Director of the Department of Industries and Commerce of H. E. H. the Nizam's Government. Afterwards joined the Alembic Chemical Works, Baroda, where he is now. |
| | Mr. E. C. Henriques. | Architecture .. | Is an Assistant Architect in the office of the Consulting Architect to Government. |
| 1913-14 .. | Mr. P. S. Katti .. | Mathematical Tripos, Cambridge. | Professor of Education, Dacca University. |
| | Mr. C. P. Shah .. | Pottery .. | Is the Manager of Than Tile Works and fireclay mine at Than (Kathiawar). He is also working as Pottery Expert to the Government of H. H. the Gaekwar of Baroda. |
| 1914-15 .. | Mr. P. A. Gasper .. | Study of English Literature and History at Cambridge with a view to entering the Indian Educational Service. | Not returned from England. Has accepted some permanent employment there. |
| | Miss J. J. Jhirad .. | Medicine .. | Medical practitioner at Bombay. |
| | Mr. P. R. Udwadia.. | Architecture and building construction. | No information available. |
| 1915-16 .. | Mr. V. S. Ghate .. | Sanskrit .. | Died. |
| 1916-17 .. | Mr. R. N. Cooper .. | Diploma of F. R. C. S. and M. S. degree of London University. | Practising in Bombay. |
| | Mr. M. B. Hudlikar . | Tanning and leather manufacture. | After return to India he joined Messrs. Narvekar, Hudlikar and Co., Managing Agents of the Mysochrome Tanning Co., Ltd., of Bombay and was also one of the Managing Directors of the said Company. This company no longer exists and Mr. Hudlikar is at present in search of employment. |
| 1917-18 .. | Miss A. J. Dodhi .. | Medicine .. | In England. |
| | Mr. G. D. Kelkar .. | Glass manufacture .. | Unemployed. |
| | Mr. N. V. Modak .. | Sanitary Engineering and Sewage disposal. | Had a lien in the Public Works Department, Bombay, but on his return from England he submitted his resignation which has been accepted by Government. |

## APPENDIX J—*contd.*

| Year. | Name. | For what study. | Occupation after return. |
|---|---|---|---|
| 1918-19 | Mr. M. D. Bhat .. | Study at Cambridge .. | Assistant Collector, Ahmedabad. |
| | Mr. G. P. Ogale .. | Glass making with special reference to the construction and working of glass furnaces. | Under Ogale Works at Karad near Satara. |
| 1919-20 | Mr. J. M. Unvala .. | Research work in Sanskrit. | Not returned from England. Has obtained a temporary post as a lecturer in Iranian languages at the London School of Oriental Studies, London. |
| | Miss G. P. Patel .. | Medicine .. | Still in England. |
| | Mr. R. G. Padhye .. | Sugar technology including sugar chemistry. | „ „ America. |
| 1920-21 .. | Miss L. V. Benjamin | Study of English and French (Hon) and degree in diploma of teaching and music. | „ „ England. |
| 1921-22 .. | Mr. C. H. Robertson. | M. R. C. P. England, L. R. C. P. London Examinations. | „ „ „ |
| | Mr. G. S. Mahajani.. | Mathematical Tripos at St. John's College. | |
| | Mr. P. L. Vaidya .. | Sanskrit .. | In Belgium and France. |

# APPENDIX K.

| | Income excluding opening balance and Government grants. | Expenditure on education from Municipal sources. | Expenditure on medical relief from municipal sources. | Incidence of taxation per head. |
|---|---|---|---|---|
| *Northern Division.* | | | | |
| | Rs. | Rs. | Rs. | Rs. a. p. |
| Prantij .. .. .. | 9,351 | 2,644 | 848 | 1 2 6 |
| Borsad .. .. .. | 15,746 | 3,438 | 1,118 | 0 11 2 |
| Jambusar .. .. .. | 21,451 | 8,695 | 1,357 | 1 12 6 |
| Bhiwandi .. .. .. | 39,224 | 7,599 | 2,658 | 2 6 10 |
| *Central Division.* | | | | |
| Sangamner .. .. | 38,031 | 16,991 | 1,284 | 1 13 9 |
| Raver .. .. .. | 15,417 | 6,301 | 2,380 | 0 15 8 |
| Sindkheda .. .. .. | 12,666 | 3,217 | 402 | 1 12 1 |
| Sinnar .. .. .. | 12,232 | 4,268 | 1,227 | 1 1 0 |
| Sirur .. .. .. | 11,831 | 1,943 | 1,801 | 2 10 3 |
| Islampur .. .. .. | 11,088 | 2,442 | 1,904 | 0 15 7 |
| Sangola .. .. .. | 10,430 | 2,274 | 1,782 | 1 5 10 |
| *Southern Division.* | | | | |
| Athni .. .. .. | 34,675 | 9,359 | 1,758 | 2 6 6 |
| Ilkal .. .. .. | 18,908 | 3,033 | 1,188 | 1 6 8 |
| Haveri .. .. .. | 11,411 | 4,575 | 300 | 1 4 1 |
| Bhatkal .. .. .. | 9,163 | 3,473 | 1,588 | 1 1 8 |
| Roha-Ashtami .. .. .. | 11,283 | 2,947 | 2,275 | 1 7 10 |
| *Sind.* | | | | |
| Manjhand .. .. .. | 10,534 | 1,623 | 5,139 | 2 0 4 |
| Nasarpur .. .. .. | 6,735 | 1,444 | .. | 1 2 10 |
| Ghotki .. .. .. | 16,685 | 2,077 | 1,285 | 3 2 5 |
| Bubak .. .. .. | 6,381 | 2,411 | .. | 1 14 7 |

## APPENDIX L.

*Statement showing talukas in all the districts in the Bombay Presidency including Sind which have their head-quarters with different names.*

| | Name of taluka. | Name of head-quarters. | Remarks. |
|---|---|---|---|
| Sind .. | Ghorabari .. | Kotri Allah Rakhio Shah. | |
| | Shahbunder .. | Ladium. | |
| | Kohistan (Mahal) .. | Thano Bulakhan. | |
| | Dero Mahabat .. | Matli. | |
| | Guni .. | Tando Mahomed Khan. | |
| | Kakar .. | Khairpur Nathanshah. | |
| | Labdaria .. | Dokri. | |
| Belgaum .. | Sampgaon .. | Bail-Hongal. | |
| | Parasgad .. | Saundatti. | |
| Dharwar .. | Bankapur .. | Shiggaon. | |
| | Karajgi .. | Haveri. | |
| | Kod .. | Hirekerur. | |
| Ratnagiri .. | Sangmeshwar .. | Deorukh. | |
| Bombay Sub-district . | South Salsette .. | Bandra. | |
| Bombay Sub-district . | Ambarnath .. | Kahoj Khuntivli. | |
| Nasik .. | Baglan .. | Satana. | |
| ! na .. | Bhimthadi .. | Baramati. | |
| | Purandhar .. | Saswad. | |
| | Mawal .. | Vadgaon. | |
| | Haveli* .. | Poona .. | *There is no village of the name of Haveli. The head-quarters is Poona which is included in a separate Poona City taluka. |
| | Ambegaon (Peta) .. | Ghoda | |
| | Mulshi (Peta) .. | Paud. | |
| | Khatav .. | Vaduj. | |
| | Man .. | Dahivadi. | |
| | Khanapur .. | Vita. | |
| | Walva .. | Islampur. | |
| | Javli .. | Medha. | |
| ıedabad .. | North Daskroi .. | Ahmedabad. | |
| | South Daskroi .. | Ahmedabad. | |
| .. | Chorasi .. | Surat. | |
| .. | Mahim .. | Palghar. | |
| | Salsette .. | Thana. | |

## APPENDIX M.

*Statement showing the number of First Class suits filed in the First Class Subordinate Courts in the Presidency for the last 5 years and the number of suits pending at the end of July 1922.*

| First Class Courts. | Suits filed. | | | | | Suits over 1 year old pending at the end of July 1922. | Total number pending at the end of July 1922. | Remarks. |
|---|---|---|---|---|---|---|---|---|
| | 1917-18. | 1918-19. | 1919-20. | 1920-21. | 1921-22. | | | |
| Surat .. | 21 | 36 | 41 | 34 | 78 | 52 | 110 | Official year. |
| Nasik .. | 16 | 7 | 21 | 11 | 22 | 2 | 18 | Do. |
| Bijapur .. | 30 | 28 | 54 | 64 | 84* | 17 | 53 | *Including those up to 31st July 1922. |
| Ahmedabad .. | 64 | 66 | 104 | 112 | 217† | 76 | 183 | †Including cases up to 31st July 1922. |
| Nadiad .. | .. | .. | 22 | 38 | 8 | 19 | 48 | |
| Karwar .. | 2 | 3 | 2 | 3 | 4‡ | 4 | 1 | ‡Till 31st July 1922. |
| Sholapur .. | 18 | 22 | 28 | 34 | 120§ | 45 | 98 | §Till August 1922. |
| Broach .. | 15 | 19 | 20 | 23 | 17‖ | 18 | 39 | ‖Till 31st July 1922. |
| Belgaum .. | 22 | 21 | 59 | 54 | 48 | 87 | 180 | Calendar year. |
| Ratnagiri .. | 4 | 5 | 4 | 4 | 10 | 1 | 13 | Do. |
| Poona .. | 66 | 33 | 59 | 73 | 83 | 61 | 143 | Official year. |
| Ahmednagar .. | 5 | 5 | 11 | 17 | 13 | 8 | 15 | Do. |
| Khandesh (Dhulia) | 39 | 43 | 74 | 55 | 97 | 28 | 110 | Do. |
| Jalgaon .. | .. | .. | .. | 62 | 55 | 43 | 87 | Was established in June 1920 |
| Thana .. | 46 | 26 | 45 | 70 | 106¶ | 62 | 126 | ¶Up to 1922. |
| Kolaba (Alibag) .. | 12 | 10 | 9 | 14 | 19¶ | 9 | 14 | |
| Dharwar .. | 67 | 61 | 98 | 91 | 195** | 140 | 241 | **Up to 1922. |
| Satara .. | 8 | 13 | 15 | 27 | 33†† | 12 | 33 | ††Up to 31st July 1922. |
| Malegaon Budruk | .. | .. | 1 | 1 | .. | 1 | 1 | |
| Total .. | 435 | 398 | 667 | 787 | 1,209 | 685 | 1,513 | |

## APPENDIX N.

*Statement showing revenue derived from the sale of Court fee and General Stamps from 1st April to 15th August of the years 1920, 1921 and 1922.*

| | Court fee stamps. | | | General Stamps. | | |
|---|---|---|---|---|---|---|
| | 1920. | 1921. | 1922. | 1920. | 1921. | 1922. |
| | Rs. | Rs. | Rs. | Rs. | Rs. | Rs. |
| Presidency proper .. | 28,75,442 | 27,27,683 | 26,55,016 | 42,28,281 | 27,81,511 | 28,10,450 |
| Sind .. | 3,54,878 | 3,32,758 | 3,18,007 | 4,41,784 | 2,95,838 | 3,12,921 |
| Aden* .. | 39,181 | 26,101 | 24,934 | 23,346 | 16,749 | 17,611 |

* The figures for Aden are for five months from 1st April to 31st August instead of 15th August.

## APPENDIX O.

*Statement showing the number of nominated members on Municipalities in the Central and Southern Divisions.*

| Name of Municipality. | Brahmins. | Marathas. | Lingayats. | Jains. | Mahomedans. | Christians. | Other non-Brahmins. |
|---|---|---|---|---|---|---|---|
| *Central Division.* | | | | | | | |
| Ahmednagar .. .. | 1 | .. | .. | .. | 1 | 1 | 5 |
| Sangamner .. .. | 1 | .. | .. | .. | .. | .. | 1 |
| Kharda .. .. | .. | .. | .. | .. | 2 | .. | 3 |
| Vambori .. .. | 2 | .. | .. | .. | 1 | .. | 1 |
| Jalgaon .. .. | .. | .. | .. | .. | 2 | .. | 1 |
| Bhusaval .. .. | .. | .. | .. | .. | 2 | 3 | 1 |
| Yawal .. .. | .. | .. | .. | .. | 3 | .. | .. |
| Faizpur .. .. | 1 | .. | .. | .. | 1 | .. | 3 |
| Raver .. .. | 2 | .. | .. | .. | 3 | .. | .. |
| Savda .. .. | 1 | .. | .. | .. | 2 | .. | .. |
| Amalner .. .. | 1 | .. | .. | 1 | 1 | .. | .. |
| Parola .. .. | 1 | .. | .. | .. | .. | .. | 1 |
| Chopda .. .. | 1 | 1 | .. | .. | 1 | .. | .. |
| Dharangaon .. .. | .. | .. | .. | .. | 2 | .. | .. |
| Erandol .. .. | .. | .. | .. | .. | 1 | .. | 1 |
| Chalisgaon .. .. | 1 | .. | .. | .. | 1 | .. | 1 |
| Dhulia .. .. | 4 | 1 | .. | .. | 2 | .. | 1 |
| Sindkheda .. .. | 2 | 1 | .. | .. | 1 | .. | .. |
| Shirpur .. .. | 2 | .. | .. | .. | 1 | .. | 1 |
| Nandurbar .. .. | 2 | .. | .. | .. | 1 | .. | 1 |
| Taloda .. .. | 1 | .. | .. | .. | 1 | .. | 2 |
| Shahada .. .. | 1 | .. | .. | .. | 1 | .. | 2 |
| Betavad .. .. | 1 | .. | .. | .. | 1 | .. | 2 |
| Nasik .. .. | 2 | 1 | .. | .. | 2 | 1 | 2 |
| Yeola .. .. | 2 | 1 | .. | .. | 1 | .. | 2 |
| Malegaon .. .. | 2 | 1 | .. | .. | 3 | .. | .. |
| Sinnar .. .. | 1 | 1 | .. | .. | 1 | .. | 1 |
| Igatpuri .. .. | 2 | .. | .. | .. | .. | .. | 2 |
| Trimbak .. .. | 1 | 1 | .. | .. | 1 | .. | .. |
| Nandgaon .. .. | 1 | .. | .. | .. | 1 | .. | 1 |
| Talegaon Dabhade .. | 2 | 2 | .. | .. | .. | .. | .. |
| Alandi .. .. | 2 | 2 | .. | 1 | .. | .. | .. |
| Poona Suburban .. | .. | .. | .. | .. | .. | .. | 3 |
| Sirur .. .. | .. | .. | .. | 1 | 2 | .. | 1 |
| Jejuri .. .. | 2 | 1 | .. | .. | 1 | .. | 1 |
| Lonavla .. .. | .. | .. | .. | .. | 1 | 2 | 1 |
| Poona City .. .. | 3 | .. | .. | .. | 2 | 1 | 1 |
| Saswad .. .. | 2 | 1 | .. | .. | 1 | .. | 1 |
| Baramati .. .. | 1 | .. | .. | .. | .. | .. | 1 |
| Junnar .. .. | 2 | .. | .. | .. | 2 | .. | 2 |
| Indapur .. .. | 2 | .. | .. | .. | 2 | .. | .. |
| Khed .. .. | 1 | 1 | .. | 1 | 1 | .. | .. |
| Wai .. .. | 1 | 1 | .. | .. | .. | 1 | .. |
| Satara City .. .. | 1 | 2 | .. | .. | 1 | .. | 2 |
| Rahimatpur .. .. | .. | 2 | .. | .. | .. | .. | .. |
| Mhaswad .. .. | .. | 1 | .. | .. | .. | .. | 1 |
| Vita .. .. | 1 | .. | 1 | .. | 1 | 1 | .. |
| Tasgaon .. .. | .. | 2 | .. | 1 | .. | .. | .. |
| Islampur .. .. | .. | 1 | .. | .. | .. | 1 | .. |
| Ashta .. .. | .. | 1 | .. | .. | .. | 1 | .. |
| Panchgani .. .. | 1 | .. | .. | .. | 1 | 2 | 4 |
| Mahableshwar .. .. | 1 | .. | .. | .. | 2 | .. | 3 |
| Satara Suburban .. | 1 | .. | .. | .. | 1 | 1 | 2 |
| Karad .. .. | 1 | .. | .. | .. | 1 | .. | .. |

## APPENDIX O—*continued.*

| Name of Municipality. | Brahmins. | Marathas. | Lingayats. | Jains. | Mahomedans. | Christians. | Other non-Brahmins. |
|---|---|---|---|---|---|---|---|
| *Central Division*—contd. | | | | | | | |
| Sholapur .. .. | .. | .. | 1 | .. | 1 | 3 | 2 |
| Barsi .. .. | 1 | .. | 1 | .. | 1 | .. | 2 |
| Karmala .. .. | .. | .. | .. | .. | 1 | .. | 1 |
| Pandharpur .. .. | .. | 1 | 1 | 1 | .. | .. | 1 |
| Sangola .. .. | 1 | 1 | .. | .. | 1 | .. | .. |
| *Southern Division* | | | | | | | |
| Belgaum .. .. | .. | 3 | .. | 1 | 1 | .. | 2 |
| Nipani .. .. | .. | .. | .. | 1 | 1 | .. | 1 |
| Athni .. .. | .. | 1 | .. | 1 | .. | .. | .. |
| Gokak .. .. | .. | .. | .. | .. | 1 | .. | 1 |
| Saundatti Yellamma Municipality .. .. | 1 | .. | .. | .. | 1 | .. | .. |
| Bail Hongal .. .. | 2 | .. | 1 | .. | 1 | .. | .. |
| Bagalkot .. .. | 1 | .. | 1 | .. | 2 | .. | .. |
| Bijapur .. .. | 1 | .. | 1 | 1 | 2 | 1 | .. |
| Guledgud .. .. | 1 | .. | 3 | .. | .. | 1 | 1 |
| Ilkal .. .. | 2 | .. | .. | .. | 2 | .. | .. |
| Dharwar .. .. | .. | 2 | .. | .. | 1 | .. | 2 |
| Hubli .. .. | .. | 1 | 1 | .. | 1 | 1 | 1 |
| Gadag-Bettigiri .. | 1 | .. | 1 | .. | 1 | 2 | 2 |
| [illegible] .. .. | 1 | .. | .. | .. | .. | .. | 1 |
| [illegible] .. .. | .. | .. | .. | .. | 1 | .. | 1 |
| [illegible] .. .. | 1 | .. | .. | .. | .. | 1 | .. |
| Byadgi .. .. | .. | .. | 1 | .. | 1 | .. | .. |
| [illegible] .. .. | 1 | .. | .. | .. | .. | .. | 1 |
| [illegible] .. .. | .. | .. | .. | .. | 1 | .. | 1 |
| .. .. | .. | .. | .. | .. | 1 | 1 | 2 |
| .. .. | 1 | .. | 1 | .. | .. | .. | .. |
| .. .. | .. | .. | .. | 1 | .. | .. | 1 |
| .. .. | 1 | .. | .. | .. | .. | 2 | .. |
| .. .. | 6 | .. | .. | .. | .. | .. | 1 |
| .. .. | 2 | 3 | .. | .. | .. | .. | .. |
| .. .. | .. | .. | .. | .. | .. | .. | 3 |
| .. .. | 1 | .. | .. | .. | 1 | .. | 1 |
| .. .. | .. | .. | .. | .. | .. | .. | 2 |
| .. .. | .. | .. | .. | .. | .. | 1 | 2 |
| .. .. | .. | .. | .. | .. | .. | 1 | .. |
| .. .. | 2 | .. | .. | .. | .. | .. | .. |
| .. .. | .. | .. | .. | .. | 1 | .. | 1 |
| .. .. | 1 | 1 | .. | .. | 1 | .. | 1 |
| .. .. | 3 | 1 | .. | .. | .. | .. | .. |
| .. .. | 1 | 2 | .. | .. | .. | .. | 1 |
| .. .. | 1 | .. | .. | .. | .. | 1 | 1 |
| Total .. | 93 | 41 | 14 | 11 | 84 | 30 | 94 |

## APPENDIX O—*continued.*

*Statement showing the number of nominated members on Local Boards in the Central and Southern Divisions.*

| Name of Local Board. | Brahmins. | Marathas. | Lingayats. | Jains. | Mahomedans. | Christians. | Other non-Brahmins. |
|---|---|---|---|---|---|---|---|
| *Central Division.* | | | | | | | |
| District Local Board— | | | | | | | |
| Ahmednagar .. | 1 | .. | .. | .. | 1 | .. | 1 |
| Taluka Local Board— | | | | | | | |
| Nagar .. .. | .. | .. | .. | .. | 1 | .. | 1 |
| Parner .. .. | .. | 2 | .. | .. | .. | .. | .. |
| Shrigonda .. .. | .. | 1 | .. | .. | .. | 1 | .. |
| Karjat .. .. | .. | 1 | .. | .. | 1 | .. | .. |
| Sheogaon .. .. | .. | 1 | .. | .. | 1 | .. | .. |
| Newasa .. .. | .. | 1 | .. | .. | .. | .. | 1 |
| Rahuri .. .. | .. | .. | .. | .. | 1 | .. | 1 |
| Kopargaon .. .. | .. | 1 | .. | .. | .. | .. | 1 |
| Sangamner .. .. | .. | .. | .. | .. | 1 | .. | 1 |
| Akola .. .. | .. | 1 | .. | .. | .. | .. | 1 |
| District Local Board— | | | | | | | |
| East Khandesh .. | 2 | .. | .. | .. | 1 | .. | 1 |
| Taluka Local Board— | | | | | | | |
| Jalgaon .. .. | 1 | .. | .. | .. | 1 | .. | 1 |
| Bhusaval .. .. | 1 | .. | .. | .. | 1 | .. | 1 |
| Yawal .. .. | 1 | .. | .. | .. | 1 | .. | 1 |
| Raver .. .. | .. | .. | .. | .. | 2 | .. | 2 |
| Amalner .. .. | .. | .. | .. | .. | 1 | .. | 2 |
| Parola .. .. | .. | .. | .. | .. | 1 | .. | 2 |
| Chopda .. .. | 1 | .. | .. | .. | .. | .. | .. |
| Erandol .. .. | 1 | .. | .. | .. | 1 | .. | 1 |
| Pachora .. .. | 1 | 1 | .. | .. | .. | .. | 2 |
| Chalisgaon .. .. | .. | 1 | .. | .. | .. | .. | .. |
| Jamner .. .. | .. | 1 | .. | .. | 1 | .. | .. |
| District Local Board— | | | | | | | |
| West Khandesh .. | 2 | .. | .. | .. | 1 | .. | .. |
| Taluka Local Board— | | | | | | | |
| Dhulia .. .. | 1 | 1 | .. | .. | 1 | .. | 1 |
| Sindkheda .. .. | 1 | 2 | .. | .. | 1 | .. | 1 |
| Shirpur .. .. | 1 | 1 | .. | .. | 1 | .. | 1 |
| Sakri .. .. | 1 | 1 | .. | .. | 1 | .. | 1 |
| Nandurbar .. .. | 1 | .. | .. | .. | 1 | .. | 1 |
| Taloda .. .. | 1 | .. | .. | .. | 1 | .. | 2 |
| Shahada .. .. | 1 | .. | .. | .. | 1 | .. | .. |
| Nawapur .. .. | .. | .. | .. | .. | 1 | .. | .. |
| District Local Board— | | | | | | | |
| Nasik .. .. | 2 | .. | .. | .. | 1 | .. | 2 |
| Taluka Local Board— | | | | | | | |
| Nasik .. .. | 2 | .. | .. | .. | .. | 1 | 1 |
| Chandor .. .. | 2 | 1 | .. | .. | 1 | .. | .. |
| Dindori .. .. | 1 | 1 | .. | .. | 1 | .. | .. |
| Sinnar .. .. | 1 | 1 | .. | .. | 2 | .. | .. |
| Igatpuri .. .. | 1 | .. | .. | .. | 1 | .. | 2 |
| Malegaon .. .. | 1 | .. | .. | .. | 1 | .. | 2 |
| Nandgaon .. .. | 1 | 1 | .. | .. | 1 | .. | .. |

## APPENDIX O—*continued.*

| Name of Local Board. | Brahmins. | Marathas. | Lingayats. | Jains. | Mahomedans. | Christians. | Other non-Brahmins. |
|---|---|---|---|---|---|---|---|
| *Central Division*—contd. | | | | | | | |
| Taluka Local Board—*contd.* | | | | | | | |
| Baglan .. .. | 2 | 1 | .. | .. | .. | .. | .. |
| Kalvan .. .. | 1 | 1 | .. | .. | .. | .. | 1 |
| Yeola .. .. | 2 | .. | .. | .. | .. | .. | 1 |
| Niphad .. .. | 2 | 1 | .. | .. | .. | .. | .. |
| Peint .. .. | 3 | 2 | 1 | .. | 1 | .. | 1 |
| District Local Board— | | | | | | | |
| Poona .. .. | 3 | .. | .. | .. | 1 | .. | .. |
| Taluka Local Board— | | | | | | | |
| Haveli .. .. | .. | .. | .. | .. | .. | 1 | 1 |
| Khed .. .. | 1 | 1 | .. | .. | .. | .. | .. |
| Junnar .. .. | 1 | 2 | .. | .. | .. | .. | .. |
| Mawal .. .. | 1 | 2 | .. | .. | .. | .. | .. |
| Bhimthadi .. .. | 1 | 1 | .. | .. | .. | .. | .. |
| Indapur .. .. | 1 | 1 | .. | .. | .. | .. | .. |
| Purandhar .. .. | 2 | .. | .. | .. | .. | .. | |
| Sirur .. .. | 1 | .. | .. | .. | .. | .. | 1 |
| District Local Board— | | | | | | | |
| Satara .. .. | 1 | 3 | .. | .. | .. | .. | 1 |
| Taluka Local Board— | | | | | | | |
| Wai .. .. | .. | .. | .. | .. | .. | 1 | .. |
| Satara .. .. | .. | 2 | .. | .. | .. | .. | .. |
| Koregaon .. .. | .. | 1 | .. | .. | .. | .. | 2 |
| Khatav .. .. | .. | 1 | .. | .. | .. | .. | 1 |
| Man .. .. | 1 | 1 | .. | .. | .. | .. | 1 |
| [illegible]napur .. .. | .. | .. | 1 | .. | .. | .. | 1 |
| [illegible]asgaon .. .. | .. | .. | .. | 1 | 1 | .. | 1 |
| .. .. | .. | 1 | .. | .. | .. | 1 | .. |
| .. .. | .. | 2 | .. | .. | .. | .. | 1 |
| .. .. | .. | 2 | .. | .. | .. | .. | .. |
| .. .. | .. | 1 | .. | .. | 1 | .. | .. |
| District Local Board— | | | | | | | |
| Sholapur .. .. | 1 | .. | .. | .. | 1 | .. | 1 |
| Taluka Local Board— | | | | | | | |
| Sholapur .. .. | 1 | .. | 1 | .. | .. | .. | 2 |
| Barsi .. .. | 2 | .. | 1 | .. | 1 | .. | .. |
| Madha .. .. | .. | .. | .. | .. | 1 | .. | 1 |
| Karmal .. .. | 1 | 1 | .. | .. | 1 | .. | .. |
| [illegible]ur .. .. | .. | .. | 1 | 1 | 1 | .. | .. |
| Sangola .. .. | 1 | 1 | .. | .. | 1 | .. | .. |
| Malsiras .. .. | .. | 1 | .. | 1 | .. | .. | .. |
| *Southern Division.* | | | | | | | |
| District Local Board— | | | | | | | |
| Belgaum .. .. | 1 | .. | 1 | .. | .. | .. | 1 |
| Taluka Local Board— | | | | | | | |
| Athni .. .. | 1 | .. | 1 | .. | 1 | .. | .. |
| Belgaum .. .. | .. | 1 | 1 | .. | .. | .. | 1 |
| Chikodi .. .. | 1 | .. | 1 | .. | 1 | .. | .. |
| Gokak .. .. | .. | .. | 1 | 1 | .. | .. | 1 |
| Hukeri .. .. | .. | .. | 1 | 1 | .. | .. | .. |

## APPENDIX O—*continued.*

| Name of Local Board. | Brahmins. | Marathas. | Lingayats. | Jains. | Mahomedans. | Christians. | Other non-Brahmins. |
|---|---|---|---|---|---|---|---|
| *Southern Division*—contd. | | | | | | | |
| Taluka Local Board—*contd.* | | | | | | | |
| Khanapur .. .. | 1 | .. | .. | 1 | .. | .. | .. |
| Parasgad .. .. | 2 | .. | 1 | .. | .. | .. | .. |
| Sarupgaon .. .. | .. | .. | 2 | .. | 1 | .. | .. |
| District Local Board— | | | | | | | |
| Bijapur .. .. | 2 | .. | 3 | .. | .. | .. | .. |
| Taluka Local Board— | | | | | | | |
| Indi .. .. | 1 | .. | 1 | .. | 1 | .. | .. |
| Sindgi .. .. | 1 | .. | 1 | .. | 1 | .. | .. |
| Bijapur .. .. | 4 | .. | .. | .. | .. | .. | .. |
| Bajewadi .. .. | 2 | .. | 1 | .. | .. | .. | .. |
| Mudebihal .. .. | 1 | .. | 1 | .. | 1 | .. | .. |
| Bagalkot .. .. | 2 | .. | 2 | .. | .. | .. | .. |
| Badami .. .. | 1 | .. | 2 | .. | 1 | .. | .. |
| Hungund .. .. | 2 | .. | 2 | .. | .. | .. | .. |
| District Local Board— | | | | | | | |
| Dharwar .. .. | 1 | 1 | 1 | .. | 2 | .. | 1 |
| Taluka Local Board— | | | | | | | |
| Dharwar .. .. | .. | .. | 2 | .. | 1 | .. | .. |
| Hubli .. .. | 2 | .. | .. | .. | .. | .. | 1 |
| Bankapur .. .. | .. | .. | 2 | .. | .. | .. | .. |
| Karajgi .. .. | .. | .. | 2 | .. | 1 | .. | .. |
| Ranebennur .. .. | .. | .. | 2 | .. | 1 | .. | .. |
| Hangal .. .. | 1 | .. | .. | .. | 1 | .. | .. |
| Kod .. .. | .. | .. | .. | .. | 1 | .. | .. |
| Gadag .. .. | .. | .. | 1 | .. | 1 | .. | .. |
| Taluka Local Board— | | | | | | | |
| Navalgund .. .. | .. | .. | .. | .. | 1 | .. | .. |
| Ron .. .. | .. | .. | 1 | .. | 1 | .. | .. |
| Kalghatgi .. .. | .. | 1 | .. | 1 | .. | .. | .. |
| District Local Board— | | | | | | | |
| Kanara .. .. | .. | .. | .. | .. | 1 | 1 | .. |
| Taluka Local Board— | | | | | | | |
| Kanara .. .. | .. | 1 | .. | .. | 1 | 1 | 1 |
| Ankola .. .. | 1 | .. | .. | .. | 1 | 1 | .. |
| Kumta .. .. | 1 | .. | .. | .. | .. | .. | 2 |
| Honavar .. .. | .. | .. | .. | .. | .. | .. | .. |
| Taluka Local Board— | | | | | | | |
| Siddapur .. .. | 2 | .. | .. | .. | 1 | .. | .. |
| Sirsi .. .. | 1 | .. | 1 | .. | 1 | .. | .. |
| Yellapur .. .. | 1 | .. | .. | .. | 1 | .. | .. |
| Haliyal .. .. | .. | 1 | .. | .. | .. | .. | 1 |
| Supa .. .. | 1 | 1 | .. | .. | .. | .. | .. |
| District Local Board— | | | | | | | |
| Kolaba .. .. | 1 | .. | .. | .. | 1 | .. | .. |
| Taluka Local Board— | | | | | | | |
| Alibag .. .. | .. | .. | .. | .. | 1 | .. | 2 |
| Pen .. .. | 1 | 1 | .. | .. | 1 | .. | .. |
| Panvel .. .. | .. | .. | 1 | .. | .. | .. | 1 |

## APPENDIX O—*concluded.*

| Name of Local Board. | Brahmins. | Marathas. | Lingayats. | Jains. | Mahomedans. | Christians. | Other non-Brahmins. |
|---|---|---|---|---|---|---|---|
| *Southern Division*—*concld.* | | | | | | | |
| Taluka Local Board—*contd.* | | | | | | | |
| Karjat .. .. | .. | 1 | .. | .. | 1 | .. | .. |
| Roha .. .. | .. | 1 | .. | .. | .. | .. | 2 |
| Mangaon .. .. | .. | 1 | .. | .. | 1 | .. | .. |
| Mahad .. .. | .. | 2 | .. | .. | 1 | .. | .. |
| District Local Board— | | | | | | | |
| Ratnagiri .. .. | 1 | 2 | 1 | .. | .. | .. | 1 |
| Taluka Local Board— | | | | | | | |
| Dapoli .. .. | 1 | 1 | .. | .. | 1 | .. | .. |
| Khed .. .. | 1 | 1 | .. | .. | 1 | .. | .. |
| Chiplun .. .. | 2 | 1 | .. | .. | 1 | .. | .. |
| Sangameshwar .. | 1 | 2 | .. | .. | .. | .. | 1 |
| Ratnagiri .. .. | .. | 2 | .. | .. | 1 | .. | |
| Rajapur .. .. | 2 | 1 | .. | .. | .. | .. | .. |
| Devgad .. .. | .. | 1 | .. | .. | .. | .. | 2 |
| Malvan .. .. | .. | 1 | .. | .. | 1 | .. | 2 |
| Vengurla .. .. | 2 | .. | .. | .. | .. | .. | 1 |
| Total .. | 103 | 73 | 41 | 7 | 79 | 10 | 76 |

## APPENDIX P.

*Statement of fatal accidents in shunting yards of the B. B. & C. I. Railway and G. I. P. Railway in Bombay.*

| Year | Railway servants. | | Non-Railway servants. | | Remarks. |
|---|---|---|---|---|---|
| | Killed. | Injured. | Killed. | Injured. | |
| | *On the B. B. & C. I. Railway.* | | | | |
| 1917 .. | 2 | .... | .... | .... | |
| 1918 .. | 1 | .... | .... | .... | |
| 1919 .. | 2 | .... | .... | .... | |
| 1920 .. | .... | *Nil* | .... | .... | |
| 1921 .. | 3 | .... | .... | .... | |
| | *On the G. I. P. Railway.* | | | | |
| 1920 .. | 1 | 8 | 4 | 4 | Records antecedent to 1920 are not available. |
| 1921 .. | 1 | 10 | 4 | 7 | |
| 1922 till middle of September. | 1 | 7 | 1 | 2 | |

## APPENDIX Q.

*Statement giving the information called for in Question put by Mr. C. C. Hulkoti, M.L.C.*

| 1 | 2 | 3 | 4 | 5 | |
|---|---|---|---|---|---|
| District. | Average No. of Civil appeals on the file of the District Judge. | No. of suits on the file of 1st Class Sub-Judge the subject matter of which amounts to more than 5,000 and less than 10,000. | Average No. of Civil Suits on the file of the 2nd Class Subordinate Judges. | Percentage of cases more than a year old in Subordinate Judge's Courts. | |
| | | | | Special Jurisdiction. | Ordinary Jurisdiction. |
| Ahmedabad .. | 520 | 148 | 1,037 | 30 | 7 |
| Broach .. .. | 75 | 32 | 1,263 | 26 | *Nil.* |
| Surat .. .. | 150 | 110 | 1,863 | 49 | 7 |
| Thana .. .. | 275 | 51 | 6,605 | 100 | 6 |
| | | (Alibag) 9 | | 60 | |
| Ahmednagar .. | 181 | 12 | 2,356 | 54 | 12 |
| Khandesh .. .. | 470 | (Dhulia) 33 | 13,299 | 25 | 3 |
| | | (Jalgaon) 41 | | 50 | |
| Nasik .. .. | 281 | 15 | 7,301 | 10 | 1 |
| Poona .. .. | 405 | 106 | 5,131 | 12 | 7 |
| Satara .. .. | 602 | 2 | 4,120 | 42 | 14 |
| Sholapur .. .. | 232 | 63 | 1,544 | 5 | 3 |
| Belgaum .. .. | 238 | 104 | 2,745 | 5 | 17 |
| Bijapur .. .. | 179 | 44 | 579 | 45 | 15 |
| Dharwar .. .. | 290 | 135 | 2,451 | *Nil.* | 8 |
| Kanara .. .. | 244 | 4 | 2,183 | 25 | 2 |
| Ratnagiri .. .. | 604 | 13 | 7,787 | 1 | 5 |
| Hyderabad .. | 139 | 36 | 6,441 | .... | 5 |
| Larkana .. .. | 64 | 15 | 3,239 | 10 | 2 |
| Sukkur .. .. | 256 | 119 33 | 5,645 | .... | 2 |

## APPENDIX R.

*Statement showing information regarding the cases under Chapter VIII of Criminal Procedure Code during last three years.*

| District. | Number of cases. | In how many of them securities were taken. | Number in which appeals were preferred. | Number in which accused had to remain in jail for want of securities. | Number in which securities were refused more than once. | Remarks. |
|---|---|---|---|---|---|---|
| Satara .. | 49 | 28 | 6 | 8 | 2 | |

# APPENDIX S.

## *Statement A.*

| | 1920. | | | 1921. | | | 1922. | | |
|---|---|---|---|---|---|---|---|---|---|
| | High school scholarships. | | Middle school scholarships. | High school scholarships. | | Middle school scholarships. | High school scholarships. | | Middle school scholarships. |
| | English. | Mathematics. | Mathematics. | English. | Mathematics. | Mathematics. | English. | Mathematics. | Mathematics. |
| *Question (a).* Number of scholarships reserved for Mahomedans that were awarded to the candidates obtaining less than 20 per cent. of marks in English and Mathematics. | 3 | 11* | 23 | 1 | 4 | 5 | 3 | 8 | 24† |

## *Statement B* (1)

| Name of District. | Number of Mahomedan candidates that appeared. | | | | | | Number of scholarships reserved for Mahomedans. | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1920. | | 1921. | | 1922. | | 1920. | | 1921. | | 1922. | |
| | M. | H. | M. | H. | M. | H. | M. | H. | M. | H. | M. | H. |
| *Question B.* | | | | | | | | | | | | |
| Bombay .. .. | 4 | 3 | 6 | 5 | 5 | 7 | 2 | 1 | 2 | 1 | | |
| Kolaba .. .. | 1 | 1 | .. | 2 | 1 | 1 | 4 | 4 | 4 | 4 | | |
| Nasik .. .. | 12 | 8 | 13 | 9 | 13 | 3 | 4 | 4 | 4 | 4 | | |
| Ratnagiri .. .. | 3 | 1 | 6 | 4 | 2 | 3 | 4 | 4 | 4 | 4 | | |
| Thana .. .. | 6 | 2 | 2 | 1 | .. | .. | 4 | 4 | 4 | 4 | | |
| Poona .. .. | 10 | 10 | 10 | 4 | 9 | 6 | 4 | 4 | 4 | 4 | | |
| Satara .. .. | 4 | 2 | 4 | 3 | 13 | 2 | 4 | 4 | 4 | 4 | | |
| Sholapur .. .. | 9 | 3 | 15 | 2 | 20 | 6 | 4 | 4 | 4 | 4 | 4 | |
| Ahmednagar .. .. | 5 | 8 | 9 | 5 | 17 | 7 | 4 | 4 | 4 | 4 | 4 | 4 |
| East Khandesh .. | 7 | 2 | 8 | 6 | 13 | 8 | 4 | 4 | 4 | | 4 | 4 |
| West Khandesh .. | 5 | 4 | 1 | 4 | 9 | 3 | 4 | 4 | 4 | | 4 | 4 |
| Ahmedabad .. .. | 11 | 11 | 21 | 1 | 5 | 5 | 4 | 4 | | | 4 | 4 |
| Kaira .. .. | 7 | 8 | 7 | 5 | 6 | 3 | 4 | 4 | 4 | | | 4 |
| Panchmahals .. | 14 | 4 | 6 | 2 | 6 | 4 | 4 | 4 | 4 | | | 4 |
| Broach .. .. | 18 | 6 | 13 | 6 | 6 | 5 | 4 | 4 | 4 | | | 4 |
| Surat .. .. | 14 | 6 | 6 | 7 | 6 | 6 | 4 | 4 | 4 | | | 4 |
| Dharwar .. .. | 14 | 10 | 27 | 16 | 9 | 10 | 5‡ | 5§ | 5‡ | | | 5§ |
| Belgaum .. .. | 12 | 8 | 13 | 8 | 11 | 2 | 4 | 4 | 4 | | | 4 |
| Bijapur .. .. | 15 | 5 | 8 | 2 | 9 | 5 | 4 | 5† | 4 | 5† | | 5† |
| Kanara .. .. | 5 | 3 | 2 | 9 | 7 | 5 | 4 | 4 | 4 | 4 | | 4 |
| Total .. | 176 | 105 | 177 | 101 | 167 | 91 | 79 | 79 | 79 | 79 | 79 | 79 |

* One of these also obtained less than 20 per cent. marks in English.
† Includes 3 from Sind where these are designated as scholarships for Mahomedans.
‡ The 5th scholarship in the Dharwar and Bijapur Districts is the Kazi Shahabuddin Scholarship.
§ The 5th scholarship is the Bursary Fund Scholarship.
M—denotes Middle School Scholarships. H—denotes High School Scholarships

## APPENDIX S—contd.

### *Statement B (2)—for Sind.*

| Name of District. | Number of Mahomedan candidates that appeared for special Mahomedan scholarship. | | | Number of scholarships reserved for Mahomedans. | | | Remarks. |
|---|---|---|---|---|---|---|---|
| | 1920-21. | 1921-22. | 1922-23. | 1920-21. | 1921-22. | 1922-23. | |
| Karachi .. .. | .. | .. | ..* | 7 | 7 | 7 | *No competitive examination was held as the number of candidates was very small and there was no competition. |
| Hyderabad .. .. | 12 | 17 | 16 | 7 | 7 | 7 | |
| Nawabshah .. .. | 34 | 10 | 22 | 7 | 7 | 7 | |
| Thar and Parkar .. | 16 | 14 | 6 | 7 | 7 | 7 | |
| Sukkur .. .. | 29 | 26 | 24 | 7 | 7 | 7 | |
| Upper Sind Frontier .. | 24 | 20 | 21 | 7 | 7 | 7 | |
| Larkana .. .. | 33 | 21 | 13 | 7 | 7 | 7 | |
| Total .. | 148 | 108 | 102 | 49 | 49 | 49 | |